INDUSTRIAL CONCILIATION AND ARBITRATION

BY

DOUGLAS KNOOP

SHUTTLEWORTH SCHOLAR AND COBDEN PRIZEMAN OF THE UNIVERSITY OF MANCHESTER

WITH AN INTRODUCTION BY

SYDNEY J. CHAPMAN

STANLEY JEVONS PROFESSOR OF POLITICAL ECONOMY, AND DEAN OF THE FACULTY OF COMMERCE IN THE UNIVERSITY OF MANCHESTER

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INTRODUCTION.

STUDIES of the sort made by Mr. Knoop in this essay are more urgently needed at the present time than they have been in most periods of our history. In saying this I am aware that the man who tries to judge relatively the magnitude of the problems of his own times is liable to become the victim of illusion. His interest in the social questions just before him imparts to them a vividness and impressiveness in comparison with which the past is dull, and he is led to feel, as hundreds of others have felt before, that he stands on the threshold of a new era. But, these considerations notwithstanding, it does seem as if the present age would be distinguished in history by the economic changes that took place in it and the attempts that were made to deal with social difficulties. In the field of industry we are faced by the 'trust' which, if not new, is at least more

predominating in industry than it was a generation ago. Among the activities of buying and selling we find again old forces so transformed as to constitute new facts. Many markets, through grading, organisation, and the telegraph, are broadening into world-markets and stretching into the future, and the large dealer, who is aided by improved financiering, is being provided, therefore, with a wider field for his operations. It is not England alone that is agitated by the question of speculation on produce exchanges. But of all the matters that are troubling advanced communities none is more serious than the labour question in its diverse aspects. Moreover, there is at the present time an undoubted disposition on the part of municipal and central governments to act in relation to the labour question. The last few years have seen a Workmen's Compensation Act adopted in this country, which deals with the risks of accident on a principle that is entirely novel to us; an immense system of workmen's insurance undertaken by the State in Germany; the compulsory fixing of wages by legally authorised boards in certain of our Colonies; attempts in many countries to render more peaceable the settlement of wages; and a new activity

among States, local authorities, and private persons to minimise the evils of unemployment by insurance, labour bureaux, labour colonies, and other means.

Never perhaps was there greater need for close studies of the social question; for there are many problems to be solved, and in an age of social effort experiments will be made, which, if not preceded by scientific investigation, will be full of risk. "The present age," writes Professor Marshall in his *Plea for the Creation of a Curriculum in Economics and Associated branches of Political Science*, "is indeed a very critical one, full of hope but also of anxiety. Economic and social forces capable of being turned to good account were never so strong as now; but they have seldom been so uncertain in their operation. Especially is this true of the rapid growth of the power and inclination of the working classes to use political and semi-political machinery for the regulation of industry. That may be a great good if well guided. But it may work great injury to them, as well as to the rest of the nation, if guided by unscrupulous and ambitious men, or even by unselfish enthusiasts with narrow range of vision. Such persons have the field too much to themselves. There is need for a larger number of sympathetic

students, who have studied working-class problems in a scientific spirit, and who, in later years, when their knowledge of life is deeper, and their sense of proportion is more disciplined, will be qualified to go to the root of the urgent social issues of their day, and to lay bare the ultimate as well as the immediate results of plausible proposals for social reform. For instance, partly under English influence, some Australasian colonies are making bold ventures, which hold out specious promise of greater immediate comfort and ease to the workers. But very little study of these schemes has been made of the same kind, or even by the same order of minds as are applied to judging a new design for a battleship with reference to her stability in bad weather: and yet the risks taken are much graver." Some experiments more or less blind must be tried, but it is folly not to provide for the best possible preliminary analyses of the situation being made, and equally folly for each country to act without regard to the plans being tested in other countries.

Not the least important of the labour questions that are pressing upon our attention at the present moment is the method of settling changes in wages. The satisfactory solution of this problem lies at the very root of social

efficiency and social peace. To determine a wage authoritatively and compel its acceptance is no solution, for it is essential that the 'right' settlement should be reached, to insure the functioning of society according to its needs, and further that the various parties to it should feel it to be right. Indeed, it might be that the 'wrong' solution would be best for a time under some circumstances, were it generally regarded as just.

The reader who is inclined to think that an exaggerated weight is being attached to the settlement of wages, because there were long periods in the past when people lived their lives comfortably enough, as a rule, without thinking much of 'social problems,' would do well to remember that the wages question, in the complicated form in which it confronts us now, is of comparatively recent origin. Without overstating the simplicity of economic arrangements in the ages gone by, we may say with truth that every year increasing division of labour, by rendering it more and more impossible to assign a product to each person's labour, and by rendering the connection between what a person does in the producing system and what he gets as his share more and more remote, has added to the difficulty of reaching

is a grave danger because, although on a cursory examination a particular question of wages appears to be comparatively simple, its correct determination may involve a knowledge of innumerable data, much of which is not known to have an appreciable bearing upon the question and most of which cannot be given a quantitative form. Moreover, since a period of the future is tied up by a wages settlement, future forces require to be estimated. Again, the data are a troubled sea of inconstant elements. To use an analogy, the problem is to deduce from a person's constitution how much food he should take each week for the next six months. Who shall say? for who shall deduce from the parts of the organism their joint needs now and for the next few months? Fortunately, nature solves the riddle by giving to such organisms appetite.

Again, in every endeavour to decide upon the best method of rearranging distribution, there is the danger of proceeding too deductively. There is a disposition on the part of those who know something of social functioning to say, 'society is of such and such a nature and therefore this and that method of dealing with social matters are unsuitable.' The truth is that we know little about society, and that the most we can establish by deduction

is a high probability. By the aid of deduction we may start with certain reasonable predilections, but experiment may show us to be wrong. There is too strong a tendency among certain classes to lay it down dogmatically that certain schemes will never work and perhaps to exaggerate the dangers of failure. Society may be delicately organised, but society nevertheless seems to be endowed with marvellous powers of recovery. Surgery is a most flagrant interference with the order of nature, but people recover from radical operations and are the better for them. The reader will observe as he peruses the pages of this work, how the danger that we are now noticing has been avoided by a judicious interweaving of induction and deduction.

Then there are the errors that arise from arguing from one set of conditions to another without introducing qualifications, from forgetting the future in the present, or *vice versa*, and from thinking of the distribution of wealth merely as a question of equitable sharing. As to the first of these mistakes nothing disparaging to comparative studies is intended. On the contrary, it is evident that Political Economy will approximately complete itself only when all economic uniformities have been observed closely as they operate in different countries,

climes, and stages of social development. The comparative investigation is always of scientific value and frequently it is also of direct practical value, but in basing action upon it we must bear in mind that local conditions are dissimilar and that empirical laws must be viewed with suspicion until they can be explained.

The third error enumerated at the beginning of the preceding paragraph has entrapped many an untrained thinker. The arbitrator who settles a question of distribution is not determining only how so much wealth shall be shared, but also, in some degree, what wealth shall be produced. For relative wages and profits are magnets attracting labour and capital to the several businesses. It is because they are magnets, and just so far as they are effective magnets, and in proportion to the range of classes over which each magnet exercises an influence, that the settlement of fundamental questions of distribution by market forces is satisfactory. Unfortunately the natural machinery of society works stiffly, and the operations of the market generate friction: hence the case for the organisations that jerk the social machine occasionally in order to set it working again or hasten its movements, and hence the value

of conciliation which keeps passions in check while forces are working through bargaining to the right position of equilibrium.

Lastly, I think we must be on our guard against the seductions of simplicity and mechanicalism. Ours is not a simple society —it is so efficient because it is not—and therefore a simple system of distribution would seem to be impossible. Mechanical the system of distribution cannot be—by mechanical I mean such that the wage of a man can be worked out by a few calculations —because the wage of each person that suits advanced division of labour is to be regarded as an inexpressible function of numerous variables, many of which are inexpressible. Besides mechanical substitutes for natural processes may easily atrophy organs that society cannot safely dispense with.

In performing the grateful task of contributing an Introduction to Mr. Knoop's able and valuable essay, it has been my object to show how important the subject of the essay is, and to prepare the reader's mind for the sort of considerations that must be weighed before judgment can be passed on the matters dealt with. It has not been my purpose to show how far I agree with the author's views and how far I dissent from them, if I disagree at all

on any momentous point. There are many no doubt who will not be prepared to accept all Mr. Knoop's conclusions, but most readers I think would subscribe to the statement that the books of most value to us are not necessarily those with which we wholly agree. The thoroughness with which Mr. Knoop has sought out his material and the impartiality with which he has sifted his evidence, the reader will soon discover for himself.

S. J. CHAPMAN.

PREFACE.

THE full title of this essay is "The Place of Conciliation and Arbitration in Industrial Disputes," but for short I have called it "Industrial Conciliation and Arbitration."

The subject is exceedingly large, and it is necessary to state, at the outset, what method has been followed in writing the essay, so that the reader may understand why certain things, which may seem trivial, have been included and why others of undoubted importance have been omitted. The whole of this essay turns upon what seem to me to be the four leading principles of industrial conciliation and arbitration: (*a*) the difference between two classes of labour disputes, the one arising out of the interpretation of existing contracts, and the other out of the terms of future contracts; (*b*) the distinction which clearly exists between conciliation and arbitration; (*c*) the contrast which

must be made between private and State conciliation and arbitration; and lastly, (*d*) the opposition between voluntary and compulsory arbitration. The essay comprises the theoretical discussion of these four points, and copious illustrations drawn from the practical working of conciliation and arbitration in different countries. In choosing my illustrations I have first drawn as fully as possible upon the material offered by the United Kingdom. This I have supplemented by foreign examples, which will be found to be much more numerous, where legislation is concerned, than in the case of private conciliation and arbitration, where reference to the United Kingdom and the United States has sufficed. Indications are given in footnotes, however, as to where information concerning other countries can be obtained. My chief illustrations of compulsory arbitration have been taken from New Zealand, but reference has also been made to the New South Wales Act, in so far as it helps to throw new light upon the subject.

Consideration of length has made it necessary to omit copies of any laws or industrial agreements, which might otherwise have been profitably included. There is no one very satisfactory collection of such documents,

the Reports of the American Industrial Commission being perhaps the best. The industrial agreements contained in it are all American and the volume on foreign labour legislation makes one or two important omissions,* and the Reports consequently require supplementing from other sources. Whenever possible an attempt has been made to indicate where such information can be obtained, either in a footnote at the place where the subject is dealt with in the text, or in short notes attached to some of the works mentioned in the bibliography.

The whole subject of the material is exceedingly complicated. Two excellent works deal with the period which ends about 1892. The Reports of the Royal Commission on Labour offer a large collection of material, not only for the United Kingdom, but also for the principal foreign countries.

* The French laws dealing with the Conseils des Prud'hommes, the Italian law of 1893 establishing the Collegi di Probi Viri and the Danish arbitration law of April 3rd, 1900, were among those in existence at the time when the reports were published. Amongst the laws passed since the publication of the reports are the following: the German law of September 29th, 1901, amending the law of July 29th, 1890; the New South Wales Industrial Arbitration Act, 1901; the New Zealand Industrial Conciliation and Arbitration Amendment Act, 1903, and the Western Australia Industrial Conciliation and Arbitration Act, 1902 (which is almost identical with the New Zealand Act).

The French Report, published by the Office du Travail: "De la conciliation et de l'arbitrage dans les conflits collectifs entre patrons et ouvriers en France et à l'étranger. Imprimerie Nationale, Paris, 1893, 1 vol. in 8° de 616 pages, 6 fr.," has the advantage over the other work of being less bulky and less expensive.* The two reports must be considered as complements rather than as substitutes for one another, for the information contained in both is by no means identical. There are many other works, besides these two reports, which deal with this period, to which reference will be found at different parts of the essay.

Since 1892 a large development of voluntary State conciliation and arbitration has taken place, and some new features in private systems and the whole question of compulsory arbitration have come to the front. The natural consequence of this enormous growth of industrial conciliation and arbitration has been a corresponding increase in the literature dealing with the subject.

One general report; † two reports of Royal

* As late as June, 1904, this report was not out of print. If it is at the present time, it could probably be obtained second-hand through MM. Muzard et Ebin, 26, Place Dauphine, Paris; or George Roustan, 5 and 17, Quai Voltaire, Paris.

† The Reports of the American Industrial Commission.

Commissions on compulsory arbitration; *four private reports dealing with the same subject; † five or six annual Government publications upon the work of the year,‡ and some more published at odd times; § not a few annual reports of State Boards of conciliation and arbitration; ‖ several official monthly labour publications;¶ a certain number of books on the subject; numerous

* Report of the New South Wales Royal Commission of Inquiry into the Working of the New Zealand Compulsory Conciliation and Arbitration Law, and the Report of the Victorian Royal Commission appointed to investigate and report on the operation of the Factories and Shops Law of Victoria.

† V. S. Clark, Labour Conditions in New Zealand; the Special Commissioner of the Adelaide (S.A.) *Advertiser*, Industrial Legislation in New Zealand: the Conciliation and Arbitration Act; A. Métin, Législation ouvrière et sociale en Australie et Nouvelle-Zélande; and H. D. Lloyd, A Country Without Strikes: A Visit to the Compulsory Arbitration Court of New Zealand.

‡ *e.g.* Reports on Strikes and Lockouts; Reports on Changes in Wages and Hours; Statistique des Grèves et des Recours à la Conciliation et à l'Arbitrage; Reports of the New Zealand Department of Labour.

§ *e.g.* Reports on Standard Piece Rates, 1893 and 1900; Reports on Standard Time Rates, 1893 and 1900; Information relating to Courts of Arbitration and Boards of Conciliation in the United Kingdom and in certain British Colonies and Foreign Countries. Pietermaritzburg, 1904.

‖ *e.g.* Reports on the Conciliation Act, 1896 (biennial); Reports of the New York State Board of Mediation and Arbitration; Reports of the Massachusetts State Board of Arbitration; the New South Wales Industrial Arbitration Reports and Records.

¶ *e.g.* Labour Gazette; Journal of the New Zealand Department of Labour; Bulletin de l'Office du Travail (France); Revue du Travail (Belgium);

articles in magazines and journals, and a vast number of reports of particular arbitrations during the past twelve years, constitute the principal sources of information for the period subsequent to 1892.

In attempting to deal with all this literature two chief difficulties have confronted me: in the first place, I have not always found it possible to obtain access to all the documents I should have liked to do, and in the second place, there was great difficulty in selecting from those I have seen: some were evidently unimportant or far too detailed for an essay like this one, others were very contradictory, and from what remained over it was by no means easy to make a satisfactory choice of material. A very similar difficulty was experienced to that just mentioned, when trying to decide exactly what should be included under the head of industrial conciliation and arbitration. After considering the matter carefully, I decided that some mention of strikes and lockouts, collective bargaining, sliding scales and other similar matters relating to the subject of the essay must be made, though such mention should be as short as possible.

Throughout this essay, whenever dealing with practical conciliation and arbitration, I

have attempted to indicate in footnotes all the sources used in writing any particular section, so that anyone wishing for further details on the subject will know where to find them. As already mentioned, during the course of my reading I have come across more indications of works dealing with industrial conciliation and arbitration than I have found it possible to refer to. This has led me to form a bibliography of all the works bearing on the subject, of which I know the titles, and it will be found in an appendix to this essay. To many of the more important works I have added short notes, indicating what the reader may expect to find in them. Details of the intentional omissions from the bibliography will be found in the appendix.

Before passing on to the subject proper, the pleasant duty remains for me to express my best thanks to various gentlemen for facilities afforded me in writing this essay, and in particular for the loan or gift of reports, books and papers:—Professor S. J. Chapman; Hon. W. P. Reeves, Agent-General for New Zealand; the late Hon Henry Copeland, Agent-General for New South Wales; Hon. H. B. Lefroy, Agent-General for Western Australia; Sir W. Peace

K.C.M.G., Agent-General for Natal; Colonel Carroll D. Wright, Commissioner of the United States Department of Labour; Mr. John McMakin, Commissioner of the New York State Department of Labour; Mr. B. F. Supple, Secretary of the Massachusetts State Board of Arbitration; Mr. K. B. Murray, Secretary of the London Labour Conciliation and Arbitration Board; Mr. W. J. Davis, Secretary of National Amalgamation of Brass Workers; Signor C. Hannan, Director of the Commercial Museum of Milan; Mr. John Smethurst, Secretary of the Federation of Master Cotton Spinners' Associations; Mr. Ralph M. Easley, General Secretary of the National Civic Federation of America; Mr. Frank Popplewell, B.Sc.; and Mr. F. G. Ewington, Auckland.

Since it has been decided to publish this essay, which was originally prepared for the Shuttleworth Scholarship at the University of Manchester, I have further to express my obligations to Professor Chapman for kindly writing the Introduction, and to my father for the great assistance given me in getting the manuscript through the press.

INDUSTRIAL CONCILIATION AND ARBITRATION.

CHAPTER I.

INDUSTRIAL DISPUTES: THEIR CAUSES AND THEIR SETTLEMENT.

"An absolutely fair rate of wages belongs to Utopia." These words of a great English economist* really give the keynote to the whole of this essay. All industrial disputes do not arise over questions of wages, but nevertheless this is the predominating cause of strife, as figures produced below will show. There is little hope that in the immediate future an entirely satisfactory solution of the newest of the great economic problems, the wages problem, will be found, and consequently anything, such as the subject-matter of this essay: "Industrial Conciliation and Arbitration," which helps to remove the difficulty, is not to be considered as an object of passing interest only, but rather as one of the few existing solutions of the problem, however imperfect they may be, which have come to stay as long as the problem itself remains. It cannot be recognised too clearly that the great economic problems, as we know them to-day, have not existed for more than a few centuries at the most, and that even at the beginning of the nineteenth

* Professor Alfred Marshall in the Preface to Price's Industrial Peace, p. ix.

century the force of custom was still often stronger than the force of competition. Adam Smith clearly recognised the problem of prices, Ricardo for the first time correctly explained the problem of rent, but it was not till well into the second half of the nineteenth century that the problem of wages received a correct treatment. It must not be thought that these problems did not exist before the time they were correctly explained, just as the laws of gravitation existed before they were explained by Newton; but whilst these latter are fundamental laws, which, as far as we know, always have been and always will be true, the laws governing economic phenomena have varied during the course of centuries, and cannot be universally applied even at the present time.

Little more than a century ago the wages problem did not exist as it exists to-day, but was to a large extent merged in the problem of prices. The subject-matter of an industrial bargain was commodities, not labour. Many a workman, generally assisted by his family, made the goods in his house and sold them either to travelling merchants or sometimes to manufacturers, who delivered them to other workmen to undergo a further process of manufacture. The only point to be settled was the price to be paid for the commodities, and just as at present no seller would think of denouncing a would-be purchaser as a "sweater" of labour because he refuses to buy at a certain price, so in the eighteenth century no workman was discontented if a merchant refused to buy his yarn at any particular price he chose to fix. Hence disputes

about the price to be paid did not arise, although of course disagreements about the quality and quantity of the goods delivered, might occur.

The wages problem as we know it, may be said to be a child of the factory system and as this grew and as the old order died out, labour was substituted for commodities in the industrial bargain. As the element of custom which still existed was gradually replaced by that of competition; as the invention of machinery to a large extent took away from the limited number of skilled workmen the advantages they had possessed over the numerous unskilled, and as even children became almost their equals; as the even balance, which for centuries had existed between demand and supply was rudely upset; as the economies arising out of the concentration of industry and capital in small areas gradually but surely destroyed the household industries; as the barrier separating management from execution became greater and greater; and, what is perhaps the crucial point of the wages problem of the present, as industry ceased more and more to be a subsidiary employment for agriculture and attained to the independent position it occupies to-day, the workman, finding himself isolated and no longer supported by his farm, ceased to be able to say to the manufacturer—"If you will not buy at my price, I will not sell at all." The workman, obliged to live, had to sell his labour for what it would fetch, and for a time, great as was the demand for labour, the supply, swelled by the children of paupers and to a large extent also by those of free labour,

exceeded the demand and wages for many years never rose above a bare living wage. This undoubtedly was the condition of wages when Ricardo wrote his "Principles of Political Economy" in 1812, for he considers that the amount paid to labour as wages is determined by the minimum of subsistence, and it is in consequence of this principle that he holds in another part of his work that none of the incidence of a tax can fall upon the labouring classes, for the simple reason that the whole of their wages is absolutely necessary to them for mere subsistence.

In so far as we are dealing with one of the most subtle changes which have taken place in economics, it is really impossible to fix the dates of the beginning and of the end of the period of transformation and to say that, before a certain date, there is a problem of prices, and that, after another date, there is a problem of wages. Nevertheless, just as when dealing with political history it is commonly said that the Eighteenth Century ended in 1789 and the Nineteenth began in 1815 after the battle of Waterloo, and that the intervening years were occupied by the French Revolution, so we may say, when dealing with the history of wages, that roughly the old system ended in 1760 and the new system began in 1824, after the repeal of the Combination Acts, and that the intervening years were occupied by the Industrial Revolution. In 1824 also, an Act was passed to amend and consolidate the laws dealing with industrial arbitration;* and thus one year saw, not only the

* 5 Geo. IV., Chap. 96.

commencement of the new problem of wages and the right of labour to organise, which were so closely connected, but also a fresh attempt on the part of the Government to assist in the settlement of any strikes which the new system might involve. *

Ever since 1824 the close connection between the wages problem, trade unionism, strikes and lockouts, and industrial conciliation and arbitration has continued to exist, although for a long time the attempts to settle industrial disputes by peaceful methods were not attended with any great success. It is not necessary to enter here into the history of conciliation and arbitration, as this will be dealt with fully further on. In this chapter, however, we must still shortly consider the wages problem of to-day and its relation to industrial disputes, industrial disputes and their relations to trade unions and employers, and lastly, trade unions and employers, or associations of employers, in their relation to industrial conciliation and arbitration.

The first words of this essay were, that "an absolutely fair rate of wages belongs to Utopia." The reader may well ask himself, what an absolutely fair rate of wages really is? Professor Marshall discusses this question at considerable length,† and as I do not wish to repeat what he has said, and certainly cannot

* The legislation of both the old and the new systems will be fully dealt with in Chapter VI.

† See Preface to Price's Industrial Peace.

improve upon it, I shall content myself with taking a short phrase of his and tacking on to it what I have to say: "The popular notion is, that there should be given a 'fair day's wage for a fair day's work.'"* This sentence clearly shows us, that a fair day's wage, even in the popular notion, is something mutual, so that an absolutely fair rate of wages may be described as one entirely satisfactory to both parties. No doubt the reader will say, that there never were two men, one paying and one receiving a wage, who were both entirely satisfied with the arrangement; it must be remembered, that in Professor Marshall's words "an absolutely fair rate of wages belongs to Utopia." The ideal or absolutely fair rate of wages is one which is practically never attained, and in daily life we always find one party gaining an advantage at the expense of the other. The advantage or disadvantage may be very slight, but it may become so great, that the party at the disadvantage refuses to continue work upon those terms. The two points at which the employer on the one hand and the workman on the other refuse to continue work may, for brevity's sake, be called the "locking out" point and the "striking" point respectively. These two points must be conceived as changing their position according to the condition of trade, and also in the case of the "striking" point in some degree according to the cost of living. Thus, when a depression of trade

* The words quoted here are from a long sentence, and the liberty has been taken of altering their order, so as to make one short sentence out of the first part of it.

follows a time of prosperity, wages, if they have remained stationary, become more and more favourable to the workpeople, or, in other words, the "locking out" point is being approached, and if the workpeople do not consent to a reduction of wages a lockout will inevitably follow. In the same way, when trade is improving, the wages paid, if they have remained stationary, become more and more favourable to employers; whilst on the other hand the workmen's "striking" point is steadily being reached and, unless the employers concede a rise in wages, a strike will follow.

The large number of industrial disputes caused by unsuccessful attempts to raise or reduce wages, has already been referred to and will be illustrated by figures below. The cause for this must now be pretty evident to the reader. When attempting to make a new industrial bargain, it is exceedingly difficult for each party to estimate the striking or locking out points of the other party. Employers and workmen each put a different estimate upon the increase in wages, which an improvement in trade will bear; and it is exactly the same with reductions, when trade is becoming depressed. Generally, each party is successful in feeling whether the other party will give way or not, and insists or withdraws accordingly; but in certain cases the one misjudges the other, or, the employers, wishing to cut down their output in times of depression, insist upon an unnecessarily large reduction of wages, in order to bring about a strike or lockout. The only satisfactory

solution for disputes arising out of increases and reductions of wages is a board of conciliation, where masters and men meet in a friendly spirit and quietly talk matters over. This will be referred to again later in the essay, and we will now pass from industrial disputes caused by an alteration in the level of wages to a discussion of industrial disputes in general.

It is most important to recognise that there are two distinct classes of labour disputes. The first class arises out of the interpretation of existing contracts. These disputes are generally individual, and are particularly suited for settlement by arbitration, if no settlement can be effected by any other method. The second class is caused by difficulties about the terms of future contracts, and these disputes are usually characterised by their collective nature. In making future contracts, two distinct kinds have to be recognised, which have been called vertical and horizontal contracts. The former are concerned with the relation which the wage of any one class of workmen bears to itself at different times; the latter are concerned with the relation which the wage of one class of workmen bears to that of another at any given time. Though the horizontal contract is sometimes a source of trouble, it is generally the vertical movement which leads to disputes. It will be easily seen that disputes of the second class are not suitable for decision by arbitration; and, shortly, the distinction between the two classes may be well expressed by saying, that the former is of a judicial and the latter of an essentially legislative character.

From the nature of industrial disputes it requires a small step only to turn to the number of the

TABLE SHOWING THE NUMBER OF STRIKES AND LOCKOUTS IN THE UNITED KINGDOM, 1894–1903.*

Year.	Number of Disputes.	Workpeople Affected.	Days Lost.
1894	929†	325,248†	9,529,010†
1895	745†	263,123†	5,724,670†
1896	926†	198,190†	3,746,368†
1897	864	230,267	10,345,523
1898	711	253,907	15,289,478
1899	719	180,217	2,516,416
1900	648	188,538	3,152,694
1901	642	179,546	4,142,287
1902	442	256,667	3,479,255
1903	387	116,901	2,338,668

* Compiled from the Annual Reports on Strikes and Lockouts.

† It is only since 1897 that disputes involving fewer than 10 workpeople and those which lasted less than one day have been omitted, except when the aggregate duration exceeded 100 working days. The figures quoted above are those altered to the new basis, as given in the Report on Strikes and Lockouts for 1899. The original figures for 1894, 5 and 6 were as follows :—

Year.	No. of Disputes.	Workpeople Affected.	Days lost.
1894	1,061	324,245	9,322,096
1895	876	263,758	5,542,652
1896	1,021	198,687	3,748,525

It is also very possible that after the original reports were published, new information came to hand, and that this was embodied in the revised figures,

TABLES SHOWING THE NUMBER OF TRADE DISPUTES TERMINATED IN GERMANY AND THE METHODS OF ADJUSTMENT, 1899–1903.*

	1899.	1900.	1901.	1902.	1903.
No. of trade disputes terminated	1,311	1,468	1,091	1,106	1,444
No. of workpeople affected	116,486	141,121	68,191	70,696	135,522
Method of adjustment:—					
Direct agreement between the parties -	542	635	392	413	556
Intervention of trade organisations - -	206	233	170	186	338
Industrial courts acting as boards of conciliation	55	45	32	43	55

* Compiled from the German Reports "Streiks und Aussperrungen (Statistik des Deutschen Riechs)" which have been published annually since 1899, and which are quoted in the *Labour Gazette.*

TABLE SHOWING THE NUMBER OF STRIKES AND LOCKOUTS IN FRANCE, 1894–1903.*

Year.	Number of Disputes.	Workpeople Affected.	Days Lost.
1894	391	54,576	1,062,480
1895	406	45,809	617,669
1896	476	49,851	664,168
1897	356	68,875	780,944
1898	368	82,065	1,216,306
1899	744	177,081	3,550,734
1900	903	222,769	3,761,227
1901	523	111,414	1,862,050
1902	512	212,704	4,675,081
1903	571	123,957	2,443,219

* Compiled from "Statistique des Grèves et des Recours à la Conciliation et à l'Arbitrage." Office du Travail, annually; and quoted in the Abstract of Foreign Labour Statistics and the *Labour Gazette.*

TABLE SHOWING THE NUMBER OF STRIKES IN THE UNITED STATES, 1891-1900.*

Year.	Number of Strikes.	Number of Establish-ments.	Employees thrown out of Employment.	Average Duration. (Days).
1891	1,717	8,116	298,939	34·9
1892	1,298	5,540	206,671	23·4
1893	1,305	4,555	265,914	20·6
1894	1,349	8,196	660,425	32·4
1895	1,215	6,973	392,403	20·5
1896	1,026	5,462	241,170	22·0
1897	1,078	8,492	408,391	27·4
1898	1,056	3,809	249,002	22·5
1899	1,797	11,317	417,072	15·2
1900	1,779	9,248	505,066	23·1

TABLE SHOWING THE NUMBER OF LOCKOUTS IN THE UNITED STATES, 1891-1900.*

Year.	Number of Lockouts.	Number of Establish-ments.	Employees thrown out of Employment.	Average Duration. (Days).
1891	69	546	31,041	37·8
1892	61	716	32,014	72·0
1893	70	305	28,842	34·7
1894	55	875	29,619	39·7
1895	40	370	14,785	32·3
1896	40	51	7,668	65·1
1897	32	171	7,763	38·6
1898	42	164	14,217	48·8
1899	41	323	14,817	37·5
1900	60	2,281	62,653	265·1

same. In recent years the importance of strikes and of their influence, has been so well recognised, that in all four of the greatest industrial countries—the United Kingdom, the United States, Germany and France—official reports are periodically published dealing with the same.† On the preceding pages I have

* Compiled from the 10th and 16th Annual Reports of the U.S. Commissioner of Labour.

† The English Reports on Strikes and Lockouts have been published annually since 1888. The French Reports, "Statistique des Grèves et des Recours à la Conciliation et à

quoted some of the more recent figures for each of these countries. Unfortunately, the manner in which the statistics are quoted differs in the various countries, so that comparison becomes difficult. It is not even possible to compare the number of disputes in the different countries, for after allowing for the size of the industrial populations, it is probable that what is included under the head of strikes and lockouts in one country, is omitted as too small and unimportant in another; and besides this, the completeness of the figures for the different countries is very liable to differ. All that can be compared are the figures for any one country in different years, and as that is done in the concluding chapter, where an attempt is made to show whether peaceful methods of settling disputes is on the increase or not, I shall not dwell upon this question here, but shall content myself with pointing out one or two of the more striking characteristics

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l'Arbitrage," have appeared annually since 1893; but ever since 1852 attempts have been made to estimate officially the number of strikes, though only from 1882 onwards can the figures be said to be reliable. The German publication, "Streiks und Aussperrungen (Statistik des Deutschen Reichs)" commenced in 1899 only and has appeared annually since. In the United States strikes and lockouts are dealt with periodically in the Annual Reports of the Commissioner of Labour. The 3rd Report, issued in 1888, dealt with the strikes and lockouts from 1881–1886. The Report of 1894 brought these figures down to June 1894 and the 16th Report, published in 1901, deals with the disputes from June 1894 till December 31st 1900. It may be mentioned, by the way, that the German Reports give figures only for the disputes terminated in any one year, and in America the figures for strikes and lockouts are quoted separately.

which the figures reveal. In the case of the statistics for the United Kingdom, one cannot fail to notice the very large number of days lost in some years. The explanation generally is, that the figures have been enormously increased by one or two particularly big strikes.* In 1894, for example, 70,000 Scotch coal miners were on strike for an aggregate duration of working days of no fewer than 5,600,000. In 1895, 46,000 boot and shoe operatives lost 1,564,000 days, whilst during 1897 and 1898, 47,500 engineers were on strike for an aggregate duration of, approximately, 6,850,000 days. In 1898, 100,000 South Wales coal miners lost 11,650,000 days, and again in 1902, 102,612 pit lads and other colliery workers from the Federated districts lost 872,000 days. These few strikes explain to a large extent the height of the United Kingdom strike statistics. The French figures, on the other hand, seem to show that France is remarkably free from large disputes. In Germany there appear to be a large number of strikes, each involving on an average only very few people. The United States figures fluctuate in a very high degree, and the abnormal number of lockouts of great duration in 1900 is particularly noticeable.

It is really quite impossible in a few short paragraphs to deal adequately with a subject like strikes and lockouts, and no attempt is made to do so, but

* A complete list of the great disputes of the United Kingdom from 1888 till 1902 will be found in an appendix to the Report on Strikes and Lockouts for 1903.

a word about them had necessarily to be introduced into an essay, the subject-matter of which is a solution for industrial disputes. From our point of view, however, it is more important to understand the causes which lead to strikes, than their numbers; as before any remedy of an evil can be discussed, it is necessary to know the cause of the evil. The statistics quoted on the next pages refer to the causes of disputes in the United Kingdom only, but as far as the importance of the question of wages is concerned, they may be taken as typical of all great industrial countries.

TABLE SHOWING THE CAUSES OF THE DISPUTES IN THE UNITED KINGDOM AND THE NUMBER OF WORKMEN DIRECTLY AFFECTED, 1899–1903.*

Principal Cause.†	Number of Workpeople *directly* affected by Disputes beginning in:				
	1899	1900	1901	1902	1903
Wages:					
For increase	73,696	57,269	19,886	15,208	14,412
Against decrease	6,826	7,385	14,852	26,053	12,019
Other	14,129	18,249	24,127	15,472	23,126
Total	94,651	82,903	58,865	56,733	49,557
Hours of labour:					
For decrease	1,069	487	1,464	203	99
Other	2,788	231	2,734	2,841	4,009
Total	3,857	718	4,198	3,044	4,108
Employment of particular classes or persons	8,187	10,427	10,524	11,436	7,822
Working arrangements	17,895	18,976	23,185	19,849	13,609
Trade unionism	5,130	19,573	11,531	25,489	17,602
Other causes	8,338	2,568	3,134	273	817
Grand total	138,058	135,145	111,437	116,824	93,515

* Compiled from the Annual Reports on Strikes and Lockouts.

† Examples of the classification of the causes of strikes and lockouts will be found in the Report on Strikes and Lockouts for 1903, pp. 122–4.

TABLE SHOWING THE CAUSES OF DISPUTES IN THE UNITED KINGDOM AND THE PERCENTAGE OF THE TOTAL NUMBER OF WORKMEN DIRECTLY AFFECTED BY THEM, 1899–1903.*

Principal Cause.	Percentage of Total Number of Workpeople *directly* affected by Disputes beginning in :				
	1899	1900	1901	1902	1903
Wages	68	61	53	49	53
Hours of labour	3	1	4	3	4
Employment of particular classes or persons	6	8	9	10	8
Working arrangements	13	14	21	17	15
Trade unionism	4	14	10	21	19
Other causes	6	2	3	0	1
Total	100	100	100	100	100

* Calculated from figures compiled from the Annual Reports on Strikes and Lockouts.

TABLE SHOWING THE PERCENTAGE OF THE TOTAL NUMBER OF DISPUTES IN THE UNITED KINGDOM DUE TO DIFFERENT CAUSES, 1899–1903.†

Principal Cause.	Percentage of the Total Number of Disputes due to different Causes in :				
	1899	1900	1901	1902	1903
Wages	64	67	63	60	60
Hours of labour	2	1	5	5	4
Employment of particular classes or persons	14	15	13	13	14
Working arrangements	10	9	11	14	15
Trade unionism	6	7	6	7	6
Other causes	4	1	2	1	1
Total	100	100	100	100	100

† Calculated from figures compiled from the Annual Reports on Strikes and Lockouts.

It will be noticed that the figures quoted above, show, on the one hand, the number of workmen directly affected by disputes due to different causes, and on the other hand, the percentage of the total number of disputes due to different causes. For purposes of comparison the first table has also been expressed in percentages of the total number of workmen directly affected. The two latter tables agree in indicating "wages" as by far the most important cause of disputes; with regard to the importance of the other causes the two tables differ considerably. According to the number of disputes "employment of particular classes or persons" is the most important cause after "wages," and "working arrangements" and "trade unionism" come next. According to the number of workpeople directly affected, "working arrangements" are the most important cause after "wages," and these are closely followed by "trade unionism," and at a considerable distance by "employment of particular classes or persons." As this is not an essay on strikes, it is unnecessary to discuss to which table most importance must be attached, and the chief object of introducing the question will have been fulfilled, if it is clear to the reader that the question of wages is the predominating cause of strikes and lockouts.

"Trade unionism," the reader will have seen, figures directly in the causes of disputes given above. Indirectly, however, a trade union was probably at the bottom of almost every strike; for organisation on the part of the workmen is essential, if they wish to have a

moderate chance of success in industrial warfare. But it is more interesting for us to note, that trade organisations are just as essential to successful arbitration and conciliation as they are to successful industrial war. This proposition sounds distinctly contradictory, but really it is not so; for a strong trade union is not only of assistance in a strike, but is also the first to appreciate the desirability of settling disputes by conciliation and arbitration, and is in the best position to see that awards are carried out. To use the words of a well-known arbitrator: *

"Unorganised labour, the new union, the employer, who though old in years, first meets a labour trouble and who has not learnt that 'war is hell'—such do not need arbitration. They believe they can win out and are quite sure to have nothing to arbitrate. In proportion as the contestants learn to respect the ability of the opponent to inflict injury and appreciate that victories are expensive, they will be willing to arbitrate, provided, of course, they have confidence in the tribunal proposed."

On the whole Trade Unions have been warm advocates of conciliation and arbitration for many years. This is clearly shown by the numerous resolutions passed at the Trades Union Congresses, which have been held annually since 1868.† Further,

* Warran A. Reed, Chairman of the Massachusetts Board of Conciliation, in an article published in Peters's "Labour and Capital."

† As an example, the following resolution, passed at the 9th Trades Union Congress in 1876 may be quoted: "That this meeting, recognising the benefits conferred on many of

the rules of many Trade Unions provide that all peaceful methods of effecting a settlement must be exhausted before a strike is declared. There is also no lack of evidence to show the opinions of prominent individual trade unionists, who are almost wholly favourable to conciliation and arbitration. I shall limit myself here to quoting three recent expressions of opinion of English Trade Union officials. Mr. T. A. Flynn, of the Amalgamated Society of Tailors, says: "I am in favour of all or any kinds of organisation, which shall tend to rob strikes of their brutality and which shall give reason and right fair play in industrial disputes." * In the opinion of Mr. W. Dyson, of the Amalgamated Papermakers' Union, "anything tending towards the settlement of disputes without resorting to strikes, must commend itself to all concerned." †

Mr. C. W. Bowerman, of the London Society of Compositors, expresses himself as follows: "I should welcome in England any movement having for its object the bringing together of employers and employed for the purpose of settling the terms and

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our great industries by the adoption of the principles of arbitration and conciliation, pledges itself to make every endeavour to extend the application of those principles to cases of dispute, in which there may be a prospect of peaceful settlement by such means."

* Report of the Mosely Industrial Commission, p. 160.

† Report of the Mosely Industrial Commission, p. 220.

conditions of employment or of amicably arranging disputed points." *

Having assured ourselves of the favourable light in which trade unions regard conciliation and arbitration, we must next consider how far they are able to see the awards carried out. The responsiblity of unions to do this is an entirely moral one. Trade Unions recognise from long experience, that if they wish to retain the respect of their employers, they must carry out their agreements, and the force of public opinion also tends to oblige them to do this. The question of enforcing awards is exceedingly difficult and various proposals, from compulsion downwards, have from time to time been made. There will be reason to refer to this question frequently during the course of the essay, but it may just be mentioned here, that in some observations appended to the Reports of the Royal Commission on Labour, the incorporation of Trade Unions was suggested as a remedy. As this question does not, strictly speaking, enter into the subject-matter of

* Report of the Mosely Industrial Commission, p. 232.

The organisation of which these three trade unionists are thinking when writing their reports, is the National Civic Federation of America, of which details will be given below on page 73; at the same place a copy of a document dealing with the Federation will be found, which was signed by all the members of the Mosely Commission.

The best collections of the opinions of English and American trade unionists on the subject of conciliation and arbitration, besides the report of the Mosely Industrial Commission, are the reports of the Royal Commission on Labour, the reports of the American Industrial Commission and the reports and publications of the National Civic Federation.

this essay, I shall not discuss the pros and cons here, but shall refer to the fact only, that trade unions and employers can, at the present day, if they so wish, enter into an agreement to be pecuniarily liable for a breach of an award, as has happened in the Leicester Boot and Shoe Trade ; * it is also generally admitted that few arbitration awards have been broken by Trade Unions, the moral responsibility of the larger unions, in any case, usually being quite sufficient to prevent a repudiation.†

After discussing at some length the attitude of Trade Unions towards conciliation and arbitration and their influence in upholding awards, we may next turn our attention to the employers and examine

* This point will be discussed more fully on page 60.

† For information about the incorporation of Trade Unions the reader may consult in the Fifth and Final Report of the Royal Commission on Labour, part I, the observations appended to the report by the Chairman (the Duke of Devonshire), Mr. David Dale, Sir Michael E. Hicks Beach, Mr. Leonard H. Courtney, Sir Frederick Pollock, Mr. Thomas H. Ismay, Mr. Geo. Livesey, and Mr. Wm. Turnstill, pp. 115–9, and the Minority Report of Messrs. W. Abraham, M. Austin, J. Mawdsley and Tom Mann, pp. 127–47. Gilman deals with the subject at considerable length in his "Industrial Peace," pp. 149–197. The best collection of recent opinion will be found in the Monthly Review, the publication of the National Civic Federation, for April, 1903, where the opinions of employers, wage earners, the general public, and the members of the Bar in particular, are all represented. An article in the *Edinburgh Review*, January, 1900, strongly favours the assumption by trade associations of a legal personality. What the incorporation of trade unions would really involve is well shown by Clement Edwards in the *Nineteenth Century*, Feb. 1902: "Should Trade Unions be incorporated ?"

their attitude. There can be little doubt that among the early difficulties of conciliation and arbitration was the unwillingness of employers to recognise Trade Unions. This is now no longer so, and employers have come to recognise that organisation on the part of the workmen is essential to successful negotiations. It has now often come to the point where employers themselves form an organisation, in order to be able to deal better with the Trade Unions. According to Mr. M'Pherson,* the men even prefer to deal with employers organised into an association

TABLE SHOWING THE NUMBER OF ASSOCIATIONS OF EMPLOYERS AT THE BEGINNING OF 1902 AND OF TRADE UNIONS AT THE END OF 1901 IN THE UNITED KINGDOM.†

Trades.	Associations of Employers.			Trade Unions.
	Federations & National Associations.	Local Associations.	Total.	
Building - - -	24	390	414	125
Mining and Quarrying -	2	34	36	59
Metal, Engineering and Shipbuilding - -	3	95	98	263
Textile - - -	4	46	50	243
Clothing - - -	4	62	66	48
Miscellaneous - -	15	169	184	498
Grand Total -	52	796	848	1,236

* Bulletin of the United States Department of Labour, No. 28, p. 459.

† Compiled from the Ninth Abstract of Labour Statistics of the United Kingdom, 1901–2.

rather than with individual masters. "The former are regarded as more liberal and less selfish than the latter, and much personal bitterness is eliminated." Whether the men favour organisations among employers or not, it is quite certain that they should tend to encourage conciliation and arbitration, for the greater the respect one party has for the fighting powers of the other and the more each sees that defeat is about as likely as victory, the more will arbitration be substituted for war.

Figures are quoted above showing the number of associations of employers in various trades and the corresponding number of Trade Unions. For purposes of comparison I give the number of Trade Boards in the United Kingdom in 1903.*

Building Trades - - - - -	50
Mining and Quarrying - - -	21
Metal, Engineering and Shipbuilding -	35
Textile Trades - - - - -	3
Clothing Trades - - - - -	22
Miscellaneous Trades - - - -	11
Total	142

These figures must not be taken as complete indications of the extent to which peaceful methods of settling disputes exist in the different trades. In the cotton industry, for example, no permanent Board exists, and whenever any point of dispute arises, the officials of the local associations

* The figures are compiled from the Directory of Industrial Associations in the United Kingdom in 1903, of which the Board of Trade published a 3rd edition in 1903.

generally arrange matters, and exactly the same happens in other industries. It must also be remembered, that a large majority of the existing Boards never settle any cases at all during the course of a year.*

In this chapter many points have been dealt with: the recent growth of the wages problem; the impossibility of an absolutely fair rate of wages, and the consequent importance of the question of wages as a cause of disputes; the existence of two distinct classes of industrial disputes, the one arising out of the interpretation of existing contracts, and the other out of the terms of future contracts; the number of strikes and lockouts in different countries; an analysis of the causes of industrial disputes, and the relation of organised employees and employers to strikes and to conciliation and arbitration. There just remains to be emphasised the fact that strikes and lockouts are very costly, and that they very often not only influence the parties immediately concerned in them, but also many of the general public. It is usually this latter point which is brought forward as the justification of compulsory arbitration;† there will be, however, an occasion to enter fully into this later on; and here it suffices to say that many do not

* The number of Trade Boards settling cases in 1903 was sixty. The figures for the last ten years will be found on page 54.

† See Reeves, State Experiments in Australia and New Zealand, and the writings of other staunch upholders of compulsory arbitration, as, for example, B. R. Wise and H. D. Lloyd.

consider the costliness or the wide-spreading influence of strikes the sole, or even the primary, justification of conciliation and arbitration, for the very nature of the wages problem itself, requiring, as it does, quiet discussion by clearsighted, coolheaded and moderate men, proves the necessity of conciliation, and possibly of arbitration. We may now enter upon a general discussion of this subject, and in the first place the importance of the distinction between conciliation and arbitration will be fully explained.

CHAPTER II.

CONCILIATION *v.* ARBITRATION.

At the outset it will be as well clearly to define the terms which are to be used in this chapter, so as to avoid confusion as far as possible. Arbitration has been defined as "an authoritative decision of an issue, as to which the parties have failed to agree, by some person or persons other than the parties." Conciliation, on the other hand, is "the discussion and settlement of a question between the parties themselves, or their representatives, who are actually interested." It is also necessary to understand two other terms which frequently occur in the literature of conciliation and arbitration. "Mediation," strictly speaking, is "the intervention of some outside person or body with a view of bringing together the parties to a dispute in conciliatory conferences." The word is much used in America*, though very often simply in the sense of conciliation†. "Collective

* *e.g.* the New York State Board of *Mediation* and Arbitration is the name of one of the best known Government Boards in America.

† An example of this will be found in a table in Vol. XVII of the Reports of the American Industrial Commission, quoted on page 142 of the essay, where the number of cases of successful and unsuccessful mediation is given, quite apart from the action taken by the initiative of the board.

Bargaining" is a term first invented by Mr. and Mrs. Webb*, and is used to signify "the process by which the general terms of the labour contract itself are determined by negotiation directly between the employers, or employers' associations, and organised working men." When one remembers that all piece rate scales and all sliding scales are examples of collective bargaining, it is not difficult to understand that this form of contract is very common. A collective bargain, however, requires a certain amount of regulation, and some system of joint committees or conferences is generally organised at the same time as the contract is made. These wages boards, or whatever else one chooses to call them, although very often, strictly speaking, not boards of conciliation and arbitration, may easily be confused with such, and for all practical purposes may be treated as such. Having pointed out of what collective bargaining really consists, no further attempt will be made in this essay to distinguish it from conciliation and arbitration.

The confusion between mediation and conciliation has already been referred to above; it must be further mentioned here, that conciliation and arbitration are also very often confused. It is not at all uncommon to find the word arbitration used to include what is in reality conciliation and mediation. There is also a good deal of justification for this broad use of the term; one thing very easily

* There is a very good chapter on the subject in their Industrial Democracy.

passes over into the other. After the "mediation" of a third party has been successful and a conference has been arranged, an independent chairman is generally appointed. If he tries merely to induce the two parties to come to an agreement, "conciliation" takes place, but if he has a casting vote, it is practically "arbitration." The distinction between conciliation and arbitration is so closely associated with their respective advantages and disadvantages, that further discussion of the point is unnecessary here; it has only been mentioned as a warning to the reader, not to think that "arbitration," "conciliation," and "mediation" are used by all writers in the sense in which they were defined at the beginning of this chapter.

Everybody practically understands that boards of conciliation, where employers and workmen meet to talk over subjects of dispute, are valuable means of maintaining industrial peace. The other very excellent effects of the boards generally come in for very slight recognition only. People do not usually appreciate the splendid service rendered by the boards as educators. It is by frank and free intercourse at the meetings of the board that employers and workmen learn to know each other, their respect and esteem for one another is increased, and mutual confidence is encouraged. The workmen begin to appreciate the infinite complexity of the problem of distribution, and also that wages are not determined by employers but by economic forces acting through them; on the boards, workmen are often in

a position to obtain a correct knowledge of the needs of a trade, and if they see for themselves that facts require a reduction of wages, the chances of a strike occurring are very greatly reduced. Employers, on their part, come to look at the human side of business and learn to understand, often for the first time, that what appear to them to be but unimportant trivialities, may affect the whole future of many families; their outlook is widened and they appreciate better their responsibilities as employers. Boards of conciliation would be valuable if they offered means only of securing industrial peace; but seeing that they form an excellent remedy for the want of confidence, the suspicion and the prejudice which exist between employers and employed, they are doubly valuable.

In spite of the excellent education which the boards provide, so much of the spirit of antagonism sometimes remains, that it is found desirable to have an independent chairman, whose duty practically is to keep the parties in a good temper whilst bargaining. The conciliator draws out the best points in each party's case and restates them in the most persuasive form, eliminating from the controversy all unnecessary sources of irritation. He inquires into the real facts of the case and makes them known to both parties. He also tries to be suggestive and fertile in devising possible solutions.

Were it practicable, it would be best to settle all cases of dispute by conciliation, which is distinctly more satisfactory than arbitration, because mutual

concessions are much to be preferred to authoritative decisions. The large majority of differences are settled by conciliation, but sometimes, whilst distinctly wishing to arrive at a peaceful settlement, neither side will give way, and it becomes absolutely necessary to reach a definite settlement by arbitration. Conciliation is something informal and friendly; each party is candid and lays the facts at its disposal fully before the other party; the disputants endeavour to convince each other, whilst in the more formal and judicial-like arbitration, they attempt to convince a third party, and advocacy is substituted for a simple appeal to facts. People do not always attend an arbitration in the right spirit, willing to assist the arbitrator to come to a fair decision, but often go with a feeling of antagonism, wishing to gain the day at any price. This, however, is not really so much a difficulty as a characteristic of arbitration, but real difficulties do exist, which I purpose examining next.

The first serious difficulty of arbitration is the choice of an arbitrator, and it is a double one. Should he, or should he not, be connected with the trade? and should he be a permanent officer, or be chosen to decide a particular case? Taking the former point first, we will consider what are the advantages and disadvantages of each course of action. It is absolutely essential that both parties to an arbitration should consider the umpire quite impartial and free from bias. At the same time, it is very desirable, if the arbitrator is to understand properly the case before him, without the arguments and discussion being unduly extended,

that he should have at least some knowledge of industry in general, if not of the particular trade in which the case has occurred. The ideal arbitrator is an unbiassed man connected with industry, but unfortunately it is not always possible to find such a man, who is acceptable to both parties, and then it becomes necessary to choose some one unconnected with trade, against whom no possible imputation of bias can be made. As far as England is concerned, members of this latter class have often been as successful arbitrators as members of the former; the late Judge Kettle, Lord Brassey and Lord James of Hereford, all gentlemen practically not connected with mining or manufacturing, have been no less successful as arbitrators than the late Rt. Hon. A. J. Mundella, the Rt. Hon. J. Chamberlain and Sir David Dale, Bart., who are, or were, closely connected with some industry. It will be noticed that all the gentlemen mentioned above are members of the brain-working class. The same observation might be made of almost all arbitrators. Mr. and Mrs. Webb have investigated this question carefully and have come to the conclusion, that this class alone is capable of bringing to the task the highest qualities of training, impartiality and judgment. Out of the two hundred and forty arbitrations ranging from 1803 to 1897, which they investigated, only in one case, in an arbitration for a new agreement between employers and employed, had a member of the wage-earning class been chosen as umpire.*

* *See* Webb, Industrial Democracy, p. 231.

As to the second point, whether the umpire should be a permanent officer, or chosen to decide a particular case, there can be no hesitation in saying that he should be selected by the board with a tenure of office the same as the board. If no appointment is made until a dispute has arisen, a spirit of struggle once being in the air, it is very improbable that the board will be able to agree in the appointment of an umpire, and it will be necessary to ask an outside person or body to nominate one. Generally the appointments made by such outside person or body, as for example by the Speaker of the House of Commons or by the Board of Trade, are satisfactory, but still it is not surprising to find that one party sometimes refuses to agree to arbitration at all, when it does not know who the arbitrator is to be. On the other hand, if a board when first elected cannot agree in the appointment of an umpire, there is not the same objection to asking an outside person or body to nominate one, for in this case, when a dispute does arise, the parties, before accepting arbitration, know who the umpire will be. In all cases it is best if the board can agree among themselves in the choice of an arbitrator, as they will then have more confidence in him and will be less likely to be dissatisfied with his decisions.

What has been discussed above is a real difficulty of arbitration, but it can at least be satisfactorily solved. The same, unfortunately, cannot be said of what is now about to be mentioned. The fundamental difficulty in disputes arising out of the terms of future

contracts is the want of principle by which the arbitrator can determine his decision; it is hardly possible to find a basis upon which to make awards and there is also a deficiency of data for the arbitrator to work upon. The difficulties of the arbitrator were once well expressed by Judge Ellison, when acting as umpire in the South Yorkshire Collieries Arbitration, 1879.*

"It is for the one side to put the men's wages as high as it can. It is for the other side to put them as low as it can. And when you have done that, it is for me to deal with the question as well as I can; but on what principle I have to deal with it, I have not the slightest idea. There is no principle of law involved in it. There is no principle of political economy in it. Both masters and men are arguing and standing upon what is completely within their rights. The master is not bound to employ labour, except at a price he thinks will pay him. The man is not bound to work for wages which won't subsist him and his family sufficiently and so forth. You are both within your rights and that's the difficulty I see in dealing with the question."

Practically the arbitrator is obliged to take a great many things into consideration: the movements in demand and supply of labour and product; the keenness of competition; the alterations in the price of the product; the living wage required by the workman; and the length of training the skilled mechanic has undergone. Besides the true facts of the case, or as many of them as have been explained

* The words are taken from the Report of the Arbitration, p. 49. They are quoted in Webb, Industrial Democracy, p. 229.

to the umpire, some account must also be taken of the fighting forces of the two sides. A very common thing for the arbitrator to do, is to "split the difference," *i.e.*, award a wage which is the mean between the rate demanded and the old rate, or the rate demanded by the other party, as the case may be. It often happens that when the men demand an increase the masters call for a reduction of wages. On the face of it this seems ridiculous, because trade must have become either better or worse, and although both parties may differ as to the extent of the alteration, it seems incredible that they should differ as to its direction. The chances are a thousand to one that they do not, but, knowing that the arbitrator will probably "split the difference," it is to the masters' advantage to make a demand in the other direction in order to reduce the amount of the rise awarded to the men. One party is as bad as the other in demanding extreme rises and reductions, and the system undoubtedly cultivates a spirit of antagonism between the two parties. "Splitting the difference" is in every way a most undesirable practice, and the sooner the rules of the permanent boards forbid it, the better, for then alone will each side act in a spirit of moderation.*

Seeing that the decision is not a question of right and wrong, but one of opinion based upon the facts

* One of the rules of the Board of Conciliation of the Federated Districts in the Coal Industry forbids the "splitting of differences." Though I know of no other rules doing so, it is very probable that some exist.

laid before the arbitrator, it is not surprising that it does not always give satisfaction to both parties. In fact one can almost say, that it is hardly ever satisfactory to both parties, which is easily understood when one remembers that arbitrations usually occur in connection with wages problems. An arbitration may be said to be successful when the decision is accepted, and, generally speaking, awards are very seldom repudiated in this country. The acceptance of an award is often facilitated if it stipulates a minimum wage and possibly also a maximum wage.*

An advantage of conciliation is, that there is not the same likelihood of a decision being rejected, seeing that both parties have participated in drawing up the agreement. The question of the repudiation of an arbitration decision is closely connected with that of its enforcement, but the discussion of this point will be deferred till Chapter V.

It may be asked whether the difficulties of arbitration are not so great as to be insuperable. This is certainly not so, for arbitrations are often successful, largely, perhaps, because all the difficulties do not arise simultaneously. But even if arbitration is successful, conciliation is still preferable by a long way, though it is necessary to have some

* Mr. Thomas Ashton, secretary of the Miners' Federation, is of the opinion that if a minimum wage had not been granted by the owners in 1893, the majority of the men would not have agreed to the terms of the settlement. See M'Pherson, Voluntary Conciliation and Arbitration in Great Britain, p. 482.

provision to resort to arbitration in those extreme cases where a deadlock may otherwise arise. Employers, employed and the general public are almost unanimous in preferring conciliation to arbitration, but want of space forbids me to quote more than two or three of the most authoritative opinions. R. Spence Watson, the well-known arbitrator, expressed himself as follows :—*

"Arbitration is better than striking or locking out, but inferior to conciliation. Industrial peace in any form is better than industrial war."

The next opinion I quote is that of the Indiana Labour Commission.†

"The experience of the Commission proves that conciliation rather than arbitration is the more effective and satisfactory method of settling disputes between capital and labour. . . . Men are adverse to leaving questions involving the correctness of their methods and the welfare of their business to the judgment of others and especially when the latter may have only a rudimentary knowledge of the intricate matters which labour controversies usually involve. The results are very different where successful efforts at conciliation are exerted. The contestants meet, talk over grievances, discuss the interests of the business involved, come to a better knowledge of each other's wishes and needs, reconcile their conflicting opinions, and thus pave the way to mutual concessions and satisfactory agreements."

My last quotation is from the Report of the New York State Board of Mediation and Arbitration for 1899.

* *Ironworkers' Journal*, June, 1895. Quoted in Webb, Industrial Democracy, p. 241 n.

† Report of the Indiana Labour Commission 1897–8, quoted in the Reports of the American Industrial Commission, Vol. XVII., p. 435.

"More is accomplished by mediation than by arbitration. The board frequently finds one party or the other to a controversy, and sometimes both, disinclined to submit the matter in dispute to arbitration, though often in such cases conferences have been arranged through mediation, at which mutual concessions were made and agreements reached."

Much stress has been laid upon the difference between conciliation and arbitration throughout this chapter. It will, however, no longer be feasible to follow up this distinction carefully. The machinery, by which conciliation and arbitration are effected, is very often the same, and it is not always easy to say when one has been used and when the other. Again the informality of conciliation often leads to no account of it being kept, and almost all the reports of proceedings, which we have, refer to arbitrations. In fact, so little evidence is forthcoming as to what is done in the direction of conciliation, that it would be almost impossible to fill a chapter with it. Whilst not following the distinction between conciliation and arbitration systematically during the rest of this essay, frequent occasions will be found where it may be emphasised, and the fact that I am acting in accordance with the views of Professor Marshall * confirms me in my opinion, that I am justified in not maintaining a clear line of demarcation between the two throughout the essay.

* In the preface to Price's Industrial Peace, Professor Marshall expresses the opinion that one is right in treating conciliation and arbitration together, although it may be convenient sometimes to contrast the two methods sharply.

CHAPTER III.

PRIVATE *v.* GOVERNMENT CONCILIATION AND ARBITRATION.

HAVING discussed at some length in the last chapter the relative merits of conciliation and arbitration, we must now turn our attention to the bodies or persons who exercise the functions of conciliators or arbitrators. The most natural persons to do this are those concerned in the dispute, for it is primarily to their interest to settle it. The form, which their intervention may take, varies. The workmen in a body may interview the masters personally. This is only possible when the number of workmen is not very great; otherwise it becomes necessary to conduct the negotiations through representatives, who may be appointed either when a particular occasion arises, or for a certain period. The employers also, if they are numerous, are often represented by delegates; and when, in any given industry, an equal number of delegates from each side meet together periodically and act according to written rules, there is constituted what is known as a 'trade board.' The chief occupation of these boards is to settle the level of wages, but they also decide all questions dealing with the conditions of labour. The work of these boards is generally effected by conciliation, but some of the most

important ones, especially in those trades where fluctuations in prosperity are very considerable, have independent chairmen, who are given a casting vote, and in those cases where it is used, arbitration is practically substituted for conciliation. 'Trade boards' are not only the most natural method of settling industrial disputes, but they are also the most satisfactory. All that was said in the preceding chapter concerning the advantages of boards of conciliation, applies fully to 'trade boards,' which are permanent bodies, whose primary object is to settle disputes by conciliation. But these are not the only advantages enjoyed by 'trade boards;' no other body or person is in an equally good position to learn of coming subjects of dispute in their very earliest stages; again, the fact that all the members of the board are well acquainted with the trade in which a dispute has arisen, tends to facilitate a settlement being arrived at. No other system of conciliation and arbitration appears to equal that of 'trade boards,' and in support of this view the very authoritative words of Colonel Carroll D. Wright, United States Commissioner of Labour, may be quoted.*

"I do not hesitate to declare that the real results to be reached by arbitration and conciliation can be secured far more effectively and in a far more acceptable

* The words are taken from a paper read before the National Civic Federation Conference at Chicago, Dec. 1900, and published in the second part of the report of the proceedings of the Conference held under the auspices of the National Civic Federation at New York, 1901.

manner through the trade board as it exists to-day in nearly all the industries in England, than by any other means."

Another organised body undertaking the functions of conciliator and arbitrator is the 'district board.' These boards are usually established by local chambers of commerce and enjoy hardly any of the advantages of the 'trade boards.' Although they generally consist of employers and employed in equal numbers, their educational value is almost reduced to nil, by the members belonging to different trades, in consequence of which employers and employees in the same industry do not meet, and by the rarity of the meetings. These boards are also at a disadvantage with regard to obtaining early information of coming disputes, and probably two of their members at the most have any knowledge of the trade in which disputes occur. A 'general board,' which is practically a 'district board' willing to act all over the country, is in a still less favourable position to learn when its services are needed.

Other organised bodies undertake to act as conciliators and arbitrators, and in these the general public, besides employers and employed, take part. Such bodies, however, practically amount to 'general boards' equipped with independent chairmen. The chief advantage they appear to enjoy over ordinary district and general boards, is that they are more likely to be supported by public opinion, which should tend to oblige people, in the first place, to submit their disputes to conciliation, or

arbitration if conciliation fails, and in the second place, to abide by decisions. Even if this tendency were strong, which is much to be doubted, the value of these bodies would fall short of that of 'trade boards,' which enjoy numerous advantages, that the others entirely lack.

Lastly it may be mentioned, that single individuals are often successful as conciliators and arbitrators in industrial disputes. When a dispute arises in a trade, which possesses no organised board of conciliation and arbitration, both parties sometimes agree to try to obtain the services of a gentleman to act as umpire. Even if they cannot agree as to the appointment of such a gentleman, they may be able to settle upon some outside person or body, whose nomination of an umpire they declare themselves willing to accept. Permanent boards also sometimes obtain the services of an arbitrator in a similar way. At the present time in England the body, which is generally requested to make the appointment, is the Board of Trade, and this leads us to the fundamental question of this chapter: should the State undertake the office of conciliator and arbitrator, or not?

Chapter V. will be devoted to the discussion of the different kinds of government conciliation and arbitration and here we have to consider the question only of the contrast between government and private conciliation and arbitration. In reply to the question, is State interference in this direction justifiable? the answer can be given that it

most certainly is, provided it is considered as complementary to private conciliation and arbitration and not as sufficient in itself. It is the duty of the State to do all it can to render easy the action of economic forces, and governments should provide all reasonable facilities for employers and workmen to bargain with one another. In so far as the State system should be complementary only to a private system, the exact form which the facilities provided by the government should take, must depend upon the private facilities for conciliation and arbitration. Although in the United Kingdom, with its splendidly developed private system, a Board of Trade appointing umpires when needed may be quite sufficient, in other countries State boards may be necessary. This point will be fully discussed below, and we must now consider, why government and private conciliation and arbitration are only complementary to one another, and not complete in themselves.

The great advantages of trade boards have been fully emphasised. District and general boards offer facilities for conciliation and arbitration, where trade boards are wanting. It is very possible that the facilities offered by the various boards are so complete that no State board is necessary. But there is one thing which no private body or person can do as well as the State, that is, undertake to appoint umpires, where employers and workmen cannot agree. Every one, remembering that he himself is a member of the State, and that it can have no object in wishing to injure him, is far more

likely to be satisfied with an appointment made by it, than with one made by any private person or body of individuals, to whom selfish motives may always be attributed. It is clear that a private system can never be so complete as to be able to stand alone and be perfect, and the less complete it is, the more will be required of the government system. But however valuable as a complement to the private system the State system may be, it is far less capable of standing alone. No board organised by a government could be nearly so satisfactory as a trade board. All the educational advantages would be entirely missing. The State board could have nothing like the same facilities as the trade board for obtaining early information of coming disputes, and again, it could have no special knowledge of the various trades in which disputes might occur. As long as trade boards act as boards of conciliation, there cannot be the slightest fear of decisions being repudiated and the danger is exceedingly small, even when they act as boards of arbitration. But where employers and employed are brought together by State boards, they can never be entirely free from the impression that they are litigants. Not only is friendly feeling between masters and workmen not cultivated, but dissatisfaction is far more likely to occur concerning decisions.

The position of Governments with regard to conciliation and arbitration has been well expressed as follows: *

* The passage is quoted from the *Edinburgh Review*, Jan., 1900.

"In such a matter [as conciliation] the State may facilitate, persuade and encourage; but it cannot attempt to dictate. It may establish means of conciliation, but cannot order that they shall be used. Efforts to interfere with individual or corporate liberty of action or that freedom of contract, which is essential to sound commerce, have failed in the past and must inevitably fail in the future. Attempts have been made to fix the price of labour or the condition of work by direct ordinance. They have never succeeded and never will succeed. Freedom of contract is as much a condition of liberty as freedom of speech; on the other hand, the State would fail in its duty if it did nothing to facilitate methods of settlement of labour disputes, either by the establishment of accessible tribunals, or by the encouragement of voluntary boards of conciliation. It may properly do much to perfect the machinery of settlement, though its power to insist on the use thereof is limited."

The Royal Commission on Labour, whilst recommending that the Board of Trade should be given the powers it afterwards obtained by the Conciliation Act 1896,* expressed itself as follows, as far as the United Kingdom is concerned, with regard to private and State conciliation and arbitration: †

"We hope and believe that the present rapid extension of voluntary boards will continue, until they cover a much larger part of the whole field of industry than they do at present. This development seems to us at present the chief matter of importance, and it has the advantage over any systematic establishment of local boards, of greater freedom of experiment and adaptation to special and varying circumstances. At the present

* For details of the provisions of this Act see page 108.

† Fifth and Final Report of the Royal Commission on Labour, Part I., § 302.

stage of progress we are of the opinion, that it would do more harm than good, either to invest voluntary boards with legal powers, or to establish rivals to them in the shape of other boards, founded on a statutory basis and having a more or less public and official character."

This short chapter, comparing and contrasting private and State conciliation and arbitration, must not be considered alone, but in conjunction with Chapters IV. and VI., where examples of the various kinds of private, and voluntary State, conciliation and arbitration are given. It is only after figures showing the work of trade boards have been contrasted and compared with those showing the work of State boards, that the great value of the work of the former will be fully understood. But in passing on to the next chapter, where private conciliation and arbitration are dealt with, one word of warning is necessary: it must not be forgotten, that a most valuable side of the work of these boards, the encouragement of good feeling between employers and employed by discussion round a common table, cannot be conveyed by figures.

CHAPTER IV.

PRIVATE CONCILIATION AND ARBITRATION.

The United Kingdom.—The first attempt to organise some permanent means of arranging future contracts peaceably, was made in 1836, when the Glasgow potters, after a strike, arranged to hold an annual convention to fix wages, and agreed that if any dispute should arise about the price to be paid in virtue of the convention, it should be submitted to a court of arbitration comprised of three masters and three workmen. In 1839 a movement started in the carpet weaving industry, to establish joint boards to examine the situation of trade and to fix wages. In 1857 some thirty of such boards existed and more than 2,000 workmen were controlled by them. After a strike in 1849 a joint board was established in the Macclesfield silk industry, consisting of twelve employers and twelve weavers, a president and a secretary, the two latter having no vote. The board existed for four years, and during this time the industry was quite free from important strikes. The immediate cause of the breakdown, was the refusal of a large manufacturer to submit to the system of fines and restraints

imposed by the rules, but the real cause of the failure was the insufficient organisation of the workmen. Till 1860 there was no further permanent board, but individual arbitrations in different industries were not infrequent.*

It is customary to overlook the early attempts at conciliation and arbitration mentioned above and to say that the first Trade Board was established in England in 1860. Although this is not quite accurate, one is justified in saying that it was not till the beginning of the "sixties," that conciliation and arbitration, as we know them to-day, were first developed, and the name most closely associated with this early movement is that of A. J. Mundella, who established the Nottingham system of conciliation and arbitration in 1860. Prior to that year much bad feeling had existed between masters and workmen in the hosiery and glove trades, and strikes and lockouts had been frequent. There had been three strikes already in 1860 and another was threatening, when Mr. Mundella and some other employers sought to devise some method of avoiding them. Conferences between masters and workmen were arranged, and finally the "Board of Arbitration and Conciliation for the Hosiery and Glove Trade" was successfully established. The object of the

* For more detailed information about the period previous to 1860 the reader may consult the French Report, De la conciliation et de l'arbitrage, etc., and H. Crompton, Industrial Conciliation.

board was " to arbitrate on any questions relating to wages, which might be referred to it from time to time by the employers or operatives, and by conciliatory means to interpose its influence to put an end to any disputes which might arise." The board was to consist of eleven manufacturers and eleven operatives, elected annually. Before any cases were submitted to the board, they were to be investigated by a committee of enquiry, consisting of four members of the board. A month's notice was to be given to the secretaries before any change in the rate of wages could be considered; meetings of the board were to be held quarterly, and might be especially convened at other times. The chairman in the original constitution of the board had a vote and a casting vote as well, in the case of a tie. This led to dissatisfaction, and the board soon ceased to vote, and acted by unanimous agreement only. Later, the rules permitted a referee to be appointed for the occasion, when the board failed to agree. The board worked very successfully for about twenty years, but then fell into disuse and finally ceased to exist. The cause of the decline has been attributed to the interests of the different classes of workmen represented having ceased to be identical.

The other early system of arbitration and conciliation, to which reference must be made, is the Wolverhampton system. In more than one way this is the complement of the Nottingham system. An agreement to establish a Board of Arbitration and Conciliation in the Building Trades

at Wolverhampton was come to on March 21st, 1864. The original rules contained no provision for conciliation, but a rule was soon adopted. By the amended rules, disputes not affecting the general interests of the trade, were to be submitted for conciliation to two representatives appointed, one from the arbitrators elected by the masters, and one from those elected by the men. Only if no agreement was come to, was the dispute to be determined by arbitration. The Board of Arbitration consisted of six masters, six men, and an umpire mutually agreed upon, who for many years was Mr. Rupert Kettle. The appointment of a permanent umpire differentiates this system from Mundella's. The other chief difference is, that at Wolverhampton, provision was made for the enforcement of awards under Section 13, 5 Geo. IV. Chap. 96.*

* 5 Geo. IV. Chap. 96, Sec. 13 provided: "if the parties mutually agree that the matter in dispute shall be arbitrated and determined in a different mode to the one hereby prescribed [for which see page 100], such agreement shall be valid and the award and determination thereon final and conclusive between the parties; and the same proceedings of distress, sale and imprisonment as hereafter mentioned shall be had towards enforcing such award (by application to any justice of the peace of the country, stewartry, riding, division, barony, city, town, burgh, or place within which the parties shall reside) as are by this Act prescribed for enforcing awards made under and by virtue of its provisions."

The manner in which awards were to be enforced is prescribed in Section 24 of the Act, where it is provided: "if any party shall refuse or delay to fulfil an award under this Act for the space or term of two days after the same shall have been reduced to writing, . . . a justice

The object of enforcing the contract was not to oblige a manufacturer to carry on his mill at a loss, or to compel a workman to work unless he chose. The chief aim was to check a sudden cessation of work on the part of the employees, which might involve the masters in very great loss; and the rules required that one day's notice should be given by either side before work ceased.

Having now touched upon the historical side of private conciliation and arbitration in the United Kingdom, we may next turn our attention to the existing state of affairs. The method I purpose following is to examine the whole system of trade boards in a general way, and one or two of the more important in detail, and then shortly consider district and general boards. The number of trade boards existing in the United Kingdom in 1903 was 142,* which

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; ; ; on the application of the party aggrieved ; ; ; is required by warrant under his hand . . . to cause the sum or sums of money directed to be paid by any such award, to be levied by distress and sale of any goods and chattels of the person or persons liable to pay the same ; . . and in case it shall appear . ; . that no sufficient distress shall be readily had ; ; ; any justice ; . ; is required by warrant under his hand . ; . to commit the person or persons so liable as aforesaid to the common gaol, or some house of correction. . ; and there to remain without bail for any time not exceeding three months."

* This number and the detailed list are compiled from the Board of Trade Directory of Industrial Associations, 1903.

were distributed among the different trades as follows :—

Building Trades	50
Coal Mining	19
Iron Mining	1
Quarrying	1
Iron and Steel Trades	8
Engineering and Shipbuilding	16
Other Metal Trades	11
Textile Trades	3
Boot, Shoe and Clog Trades	18
Tailoring Trades	4
Dock and Waterside Labour	4
Miscellaneous	7
Total	142

The number of boards must not be taken as indications of the degree in which peaceful methods of settling disputes are practised in the various trades. To estimate this fully we should have to consider the number of boards annually settling cases, the number of cases annually considered by the boards, and the number annually settled by them, and these figures we should have to contrast with the number of strikes in the various trades. I shall have reason to refer to figures illustrating all these points later on, but for the purpose of comparison, I have worked out figures below, showing the percentage of all these things happening in the various trades. The figures require no explanation, and a glance at them suffices to show which trades are well supplied with conciliation and arbitration facilities and which are not. On page 52, figures are produced giving details for

TABLE SHOWING THE PERCENTAGE OF DISPUTES, EXISTING BOARDS, ACTING BOARDS, AND CASES CONSIDERED AND CASES SETTLED BY PERMANENT BOARDS IN DIFFERENT TRADES.*

Trades.	Percentage in the various Trades of the average (1899–1903) No. of				
	Existing Boards in 1903.	Acting Boards.	Cases Considered.	Cases Settled.	Strikes
Building Trades	35	14	1	2	18
Mining and Quarrying	15	20	73	61	27
Metal, Engineering and Shipbuilding	25	40	14	23	18
Textile	2	2	1	½	16
Clothing	15	16	9	13	6
Other Trades	8	8	2	½	15
Total	100	100	100	100	100

the five years 1899–1903, of the number of trade boards settling cases, and of the cases considered and settled by them in various trades. The most noticeable feature of the table is the increasing work done by the boards in the mining and quarrying trades.

The table given on page 54, summarising the work of permanent boards of conciliation and arbitration, extends our information concerning these boards over a period twice as long as that previously considered, and also, with regard to the number of cases settled, gives us the important information as to how many

* The figures are calculated from statistics compiled from the Reports on Strikes and Lockouts.

TABLE SHOWING THE WORK OF PERMANENT BOARDS OF CONCILIATION AND ARBITRATION IN THE UNITED KINGDOM 1899-1903, CLASSIFIED BY TRADES.*

	1899.			1901.			1901.			1902.			1903.		
	No. of Boards settling Cases.	No. of Cases considered by Boards.	No. of Cases settled by Boards.	No. of Boards settling Cases.	No of Cases considered by Board.	No. of Cases settled by Boards	No. of Boards settling Cases.	No. of Cases considered by Boards.	No. of Cases settled by Boards.	No. of Boards settling Cases.	No. of Cases considered by Boards.	No. of Cases settled by Boards.	No. of Boards settling Cases.	No. of Cases considered by Boards.	No. of Cases settled by Boards.
Trade Boards :—															
Building - - -	7	13	9	11	29	23	9	20	13	7	19	11	7	15	10
Mining and Quarrying -	7	829	367	13	824	283	11	1,035	401	13	1,104	424	12	1,278	516
Iron and Steel - -	6	45	30	6	29	20	6	44	37	6	41	44	5	55	47
Engineering and Shipbuilding - - -	9	98	81	9	116	103	11	138	114	13	135	103	16	104	76
Other Metal Trades -	7	20	17	7	15	14	3	10	10	3	39	19	2	28	27
Textile Trades - -	—	—	—	—	—	—	1	3	3	1	10	8	2	20	7
Boot and Shoe Trades -	11	175	125	10	147	107	8	146	101	8	82	57	8	80	29
Other Trades - - -	3	43	42	6	26	25	3	5	4	4	26	20	8	48	42
District and General Boards	3	9	4	2	4	3	2	4	2	2	6	2	2	5	4
Totals - -	53	1,232	675	64	1,190	578	54	1,405	685	57	1,462	678	62	1,633	788

* Compiled from the Reports on Strikes and Lockouts.

were effected by conciliation on the one hand, and by arbitration on the other. In this connection the increased proportion of cases settled by arbitration is very marked. In 1894 and 5 only 16 per cent. of the total settled cases were settled by arbitration, whilst the proportion in the following years was 25 per cent., 23 per cent., 28 per cent., 26 per cent., 27 per cent., 27 per cent., 24 per cent., and in 1903 no less than 36 per cent. The number of cases considered by the boards decreased till 1900, but since then has increased steadily. If we now compare this table with that on page 55, showing the agencies employed in settling strikes and lockouts, we shall see how very small are the number of strikes settled by trade boards. The explanation is, that the great mass of the work of trade boards is done before any strike occurs, and it is perfectly certain that this is by far the most valuable part of their work, for it is exceedingly difficult for any other organisation, whether instituted by private individuals or by governments, to intervene successfully before a rupture has taken place, and at all times the guiding motto should be, "Prevention is better than cure."

If we next consider the arrangements which exist in one or two of the more important industries for the settlement of any disagreements, which may arise, coal mining calls for the first mention. This industry is prominent both on account of the considerable number of strikes occurring in it and of the excellent facilities which it possesses for avoiding them. The number of workmen employed in the industry

TABLE SUMMARISING THE WORK OF THE PERMANENT BOARDS OF CONCILIATION AND ARBITRATION IN THE UNITED KINGDOM, 1894–1903.*

	1894	1895	1896	1897	1898	1899	1900	1901	1902	1903
Number of Cases submitted -	1,733	1,282	1,456	1,465	1,320	1,232	1,190	1,405	1,462	1,633
Cases withdrawn, referred back, etc. - - - -	368	293	582	603	493	506	563	681	711	785
Number of Cases settled :										
By Conciliation - - -	1,142	831	613	623	555	503	421	503	514	506
By Arbitration - - -	223	158	205	186	220	172	157	182	164	282
Total - - -	1,365	989	818	809	775	675	578	685	678	788
Number of Permanent Boards settling Cases :										
Trade Boards - - -	44	39	49	49	47	50	62	52	55	60
District and General Boards	3	1	1	2	2	3	2	2	2	2
Total - - -	47	40	50	51	49	53	64	54	57	62

* Compiled from the Annual Reports on Strikes and Lockouts.

TABLE CLASSIFYING STRIKES AND LOCKOUTS IN THE UNITED KINGDOM ACCORDING TO THE AGENCY EMPLOYED IN THEIR SETTLEMENT, 1894–1903.*

	1894	1895	1896	1897	1898	1899	1900	1901	1902	1903
Trade Boards:										
Conciliation	7	7	12	10	18	5	2	12	7	5
Arbitration	3	4	—	1	1	—	4	4	1	2
Total	10	11	12	11	19	5	6	16	8	7
Individuals:										
Conciliation	11	10	13	9	8	11	9	4	4	3
Arbitration	16	24	20	12	8	15	10	10	7	10
Total	27	34	33	21	16	26	19	14	11	13
Under the Conciliation Act, 1896:										
Conciliation	—	—	—	7	4	1	1	2	1	—
Arbitration	—	—	—	1	3	1	5	9	6	6
Total	—	—	—	8	7	2	6	11	7	6
Trade Councils and Federation of Trade Unions:										
Conciliation	1	—	—	1	—	5	1	—	1	—
Arbitration	4	—	—	—	1	—	—	—	1	—
Total	5	—	—	1	1	5	1	—	2	—
General Boards:										
Conciliation	—	—	—	—	—	—	—	—	—	—
Arbitration	—	—	—	—	—	—	—	—	1	—
Total	—	—	—	—	—	—	—	—	1	—
Totals:										
Conciliation	19	17	25	27	30	22	13	18	13	8
Arbitration	23	28	20	14	13	16	19	23	16	18
TOTAL	42	45	45	41	43	38	32	41	29	26

* Compiled from the Annual Reports on Strikes and Lockouts.

is very great, the Trade Unions connected with it are exceedingly powerful and the employers also possess strong organisations. These conditions have naturally fostered the growth of joint boards, and the four most important of these are the Northumberland Board, the Durham Board, the South Wales Board, and the Federated Districts Board.

*The Northumberland Coal Trade.**—In this trade there are at present two joint committees, one of which has to do with the settlement of local and minor questions and the other with the county rate of wages. The former was established in 1872, and appears to have worked successfully ever since. The latter, a joint committee consisting of fifteen representatives on each side, with an independent chairman, was first established in 1891, but was abandoned two years later, only to be revived in practically the same form in 1895.

The Durham Coal District.—There exist here four separate boards of conciliation for the settlement of local matters and one large board for the determination of the county rate of wages, and of the general conditions of labour. The former system was established in 1872; the latter is of more recent origin and has been interrupted in its operation from

* Quite recently the question of the Northumberland miners joining the Miners' Federation of Great Britain has again arisen. This would involve the former accepting the principles of a minimum wage and a compulsory eight hours' day, and supporting the National Federation Parliamentary Funds. At the end of 1904 nothing definite had come of the proposal.

time to time by discontent on the part of the employees.* In 1898 it was re-established and consisted of thirty-six members, eighteen appointed by the Coal Owners' Association; nine by the organisation of the miners proper; three by the organisation of the cokemen; three by the enginemen; and three by the mechanics. The members annually choose an independent umpire.

The South Wales Coal Trade.—A sliding scale and joint committee were established in 1875. New agreements were drawn up in 1882, 1888, 1890 and 1892. In 1898 there was a strike and a new agreement was afterwards made re-establishing the scale of 1892. This agreement could not be terminated prior to 1903. On July 1st, 1902, six months' notice was given by the South Wales Miners' Federation to the Employers' Association for the termination of the Sliding Scale Agreement of 1898. The workmen wished minimum and maximum wages to be fixed and a conciliation board to be established to determine the general rate of wages in place of the sliding scale. After prolonged negotiations a new agreement was drawn up and signed on March 31st, 1903, which is to remain in force till the end of 1905. The Board consists of twenty-four representatives from each side and an outside chairman,who has only a casting vote. Sir Michael Hicks Beach has been appointed

* Since this passage was written, the Durham Miners' Council on Sept. 24, 1904, gave notice to the coal owners to terminate the conciliation board.

first Chairman of this South Wales and Monmouthshire Coal Conciliation Board at a salary of 200 guineas. The maximum and minimum wages fixed, are 60 and 30 per cent. respectively, above the December, 1879, standard. The Board meets once a month and ten days' notice of any proposed alteration of wages must be given. A new feature about this board is the appointment of Mr. F. L. Davis as permanent chairman on the coal owners' side at a salary of £2,000 a year. Till this was done, the office had been an honorary one, but the abolition of the sliding scale so greatly increased the duties and responsibilities of the chairman, that this arrangement was come to.

The Board of Conciliation of the Federated Districts.—This Board grew out of the great strike of 1893*, when more than 300,000 persons were thrown out of employment. The Board was established at a conference over which Lord Rosebery presided, but it broke up in 1896, only to be re-established in 1898. The Board consisted of fourteen members chosen by the Federated Coal Owners and fourteen members chosen by the Miners' Federation. The independent Chairman was Lord James of Hereford; and it is interesting to note that the rules prohibited the practice of "splitting the difference" between existing rates and those demanded. The agreement

* For details of this strike, the reader may consult J. B. M'Pherson, Voluntary Conciliation and Arbitration in Great Britain, published in the Bulletin of the U.S. Department of Labour, May 1900, pp. 472–482, and the Report on Strikes and Lockouts for 1893.

constituting the Board expired at the end of 1903. It was extended for three months, and before April 1st, 1904 a new agreement was made by which the Board, with certain modifications, was to be reconstituted till the end of 1906.* Lord James of Hereford has again been appointed independent Chairman, and at his suggestion an attempt was made to determine mutually a basis between selling prices and wages, which practically amounted to drawing up a sliding scale; this attempt was unsuccessful and the future decision of wages questions remains unchanged.†

We may now turn our attention to the metal trades and consider three of the most important joint boards.

The North of England Manufactured Iron and Steel Trade.—A Board was established in 1869 and consists of one employer and one employee from each of the works joining the system. A standing Committee of five representatives from each side deals with disputes in the first instance and settles any question submitted by the representatives of both sides from the works affected, except such as relate to a general rise or fall in wages.

The West of Scotland Manufactured Steel Trade.—A Board was established in this trade in 1890, but did not work very well at the commencement,

* Details of the new agreement will be found in the *Labour Gazette*, March, 1904.

† For an account of the meeting of the Federated Districts Coal Conciliation Board held on June 22nd, 1904, when this question was discussed, see the *Manchester Guardian* of the next day.

though it improved as time went on. In 1896 an agreement was made in the Manufactured Iron Trade of Scotland, and a Board of Conciliation precisely similar to that of the West of Scotland Steel Trade was established.

The Wear Shipbuilding Board of Conciliation.—This was established in 1885. It represents on the part of the men the organisations of shipwrights, joiners, smiths and drillers. Each of these separate branches of the trade has a departmental board of its own, composed of six employers and six employees. The general board is made up of six representatives, half masters and half men, from each section.

Another industry which is well equipped with joint boards is the *Boot and Shoe Trade.* A local board was established at Leicester in 1895, and similar boards exist at Nottingham, Kettering, Bristol and Leeds. After a good deal of trouble, and more than one strike, an agreement was come to between the Federated Association of Boot and Shoe Manufacturers and the National Union of Boot and and Shoe Operatives, by which a joint committee of four manufacturers and four workmen was established to determine the precise method on which piece-work statements were to be based. Joint committees for local districts were also established for the same object. The most interesting feature of this system is the manner in which an attempt is made to enforce awards. By a deed dated March 8th, 1898, a trust fund was established as a guarantee for

the carrying out of an agreement or a decision of arbitrators. One thousand pounds was deposited by the representatives of each side, and if any part of that sum is forfeited by either party, the sum must be made good again to the trustees. In 1899 a strike occurred, and the employers claimed compensation from the guarantee fund, and were awarded £300 by Lord James of Hereford, the outside umpire. In November 1902 a small strike took place and another claim was made upon the fund, and in this case Lord James imposed a fine of £5. The penalty clause of the agreement has proved quite satisfactory so far ; but the agreement as a whole is disapproved of by many, chiefly because almost every important decision has to be made by the outside umpire, as the national conferences are publicly conducted and neither the representatives of the employers nor those of the employed dare concede anything to their opponents.

The very small facilities in the *Textile Trades* for conciliation and arbitration have already been referred to. This essay, however, would not be complete without a reference to the "Brooklands Agreement" which has been described as "the high-water mark of achievement in dealing with industrial disputes." One word may first be said with regard to the Board of Conciliation, which has been established in the *Nottingham Lace Trade* since 1868. This board is chiefly remarkable for the method employed of enforcing decisions. The

rules provide that any member of the Lace Manufacturers' Association who fails to comply with a decision regarding the prices to be paid, shall pay the costs of an inquiry into his action in addition to the difference in wages from the time of the complaint. If he refuses to do so, the employers' association must refuse him any pecuniary assistance, while the association of operatives has full power to withdraw its members from the service of the employer. On the other hand, any member of the operatives' association who shall violate a decision must pay the costs of the inquiry. If he fails to do so, the operatives' association must pay the costs and must exclude him from all its benefits, or if it gives him assistance, it must pay a fine of £10.

The Cotton Trade.—In most branches of the cotton trade, wages are fixed by the piece and the great complexity of the operations makes the determination of the rates a matter of extreme difficulty. The settlement of minor technical points of dispute in connection with piece-work scales of individual mills, is mainly in the hands of the respective secretaries of the local associations of employers and employees, who are practically permanent, paid officials. When it comes to revising the general agreement itself the machinery for collective bargaining takes the form of a joint committee composed of a certain number of representatives of each side. This committee may either be a district or a general one, according to the area affected. The regulations of these conferences are, as far

as the spinning industry is concerned, generally covered by what is known as the "Brooklands Agreement." This provides, that every complaint must first be submitted by the secretary of the local association of employers or of employees to the secretary of the other organisation. If these fail to reach an agreement, the point at issue is to be discussed by a committee consisting of the secretary and three representatives chosen by the local organisations on each side. Should these still fail to reach a decision, the matter is referred, if either of the secretaries of the local organisations deem it advisable, to a committee consisting of four representatives of the federated association of the employers and their secretary and four representatives of the amalgamated association of employees and their secretary. Until all these negotiations have been gone through, no strike or lockout can be countenanced. To settle the conditions of labour throughout a district, a general conference is held. It is provided that no change of wages shall be sought by either side, until at least one year after the date of the last change and no change shall exceed 5 per cent. In April 1900 some small modifications were introduced into the "Brooklands Agreement," but the leading principles are the same as before.*

In 1899 and 1900 an attempt was made to establish a conciliation scheme in the cotton

* For details of the amendments, see the Report on Changes in Wages and Hours, 1900, p. 226.

spinning industry for the adjustment of wages in accordance with the state of trade, but after long negotiations the attempt proved unsuccessful.*

District and General Boards.—The work done by these boards has already been referred to in the tables on pages 52 and 55, where the number of boards settling cases, the number of cases considered and settled, and the number of strikes settled by boards during the last years are given. In 1903 there were seventeen district boards † and four general boards ‡ in existence. The majority of these boards have never come into operation at all, and the only one which requires any separate notice is the *London Labour Conciliation and Arbitration Board.* It was the London dock labourers' strike in 1889 which led to its formation. The rules were

* *See* Conciliation in the Cotton Trade, Report of Negotiations 1899–1900, and Press Comments; and L. L. Price, Conciliation in the Cotton Trade, *Economic Journal*, June, 1901.

† The Boards were for Aberdeen, Birmingham and District, Bristol, Derby, Dewsbury and District, Dudley and District, Halifax and District, Leeds, Liverpool and Vicinity, London, Macclesfield and District, Manchester, Plymouth, Ulster, Wakefield and District, Walsall and District and Warrington.

‡ These were the Industrial Union of Employers and Employed; the Joint Committee of Trade Unionists and Co-operators; the National Industrial Association; and the Board of Arbitration composed of representatives from the Scottish Section of the Co-operative Union, Ltd., and the Parliamentary Committee of the Scottish Trades Union Congress. This list and that of District Boards are taken from the Board of Trade Directory of Industrial Associations 1903, where the names and addresses of all the secretaries of the Boards will be found.

adopted by the Council of the London Chamber of Commerce, on February 6th, 1890, and were finally revised and adopted at the first meeting of the board on December 12th, 1890. The board consists of twelve members, representing capital and employers, who are elected by the council of the chamber, and twelve members representing labour, elected by the employed. For the purpose of facilitating the election, twelve groups of trades* have been selected, each of which sends one representative to the board. The duty of the board is to promote amicable methods of settling labour disputes. They invite to friendly conferences parties to disputes, and if these parties choose, they may lay their case before the board. The board will in no case act as arbitrators unless invited to do so by both parties. The rules also permit of trade conciliation committees being formed in any trade carrying on its operations within the metropolis. Although the number of cases considered and settled by the board cannot be compared with the average work done by trade boards, it may fairly be said of this board, that it occupies an almost unique position in London in assisting to settle industrial disputes.†

* The trades are as follows:—(1) Building trades; (2) cabinet and furnishing trades; (3) carmen, coach, tram and 'bus employees; (4) clerks, shop-assistants and warehousemen; (5) clothing trades; (6) gas, coal and chemical trades; (7) leather trades; (8) metal trades; (9) printing and paper trades; (10) provision and food trades; (11) railway workers; (12) shipping trades.

† The principal works consulted in writing this section were as follows: the Reports of the Royal Commission

Sliding Scales.—It is not my intention to give here an analytical account of the advantages and disadvantages of sliding scales, which has been well done elsewhere,* but to offer a description of their present position in the United Kingdom. The principle upon which a sliding scale is based, is that wages should vary according to profits, and though they do sometimes directly vary with such, calculated from the books of certain employers, prices or margins are generally taken in preference. The system is restricted

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on Labour; De la Conciliation et de l'Arbitrage, etc.; the Reports of the American Industrial Commission, Vol. XVII.; H. Crompton, Industrial Conciliation; J. D. Weeks, Report on the Practical Working of Arbitration and Conciliation in the Settlement of Differences between Employers and Employees in England; J. B. M'Pherson, Voluntary Conciliation and Arbitration in England; S. and B. Webb, Industrial Democracy; Reports on Strikes and Lockouts; Report on Standard Piece Rates, 1900; Reports on Changes in Wages and Hours; Conciliation in the Cotton Trade; Report of Negotiations, 1899–1900, and Press Comments; L. L. Price, Conciliation in the Cotton Trade, *Economic Journal*, June, 1901; the Rules and Annual Reports of the London Labour Conciliation and Arbitration Board; the Board of Trade Directory of Industrial Associations, 1903.

For the most recent developments the following have been used. The *Labour Gazette;* the Labour Notes of the *Economic Journal;* the daily papers, especially the *Manchester Guardian*, 28 Dec., 1903, 26 Feb., 1904, 10 March, 1904, 23 June, 1904, and 25 June, 1904; the *Daily Dispatch*, 27 Feb., 1904, 25 May, 1904, and 26 Dec., 1904, and the *Manchester Evening Chronicle*, 2 June, 1904.

* See, especially, S. J. Chapman, Some Theoretical Objections to Sliding Scales, *Economic Journal*, June, 1903. A bibliography of this subject will be found at the end of the section.

by its very nature to the production of commodities in the earliest stages of manufacture, and has been most largely used in the mining, quarrying and metal trades. Some twenty years ago most colliers worked under this system, but the last sliding scale in this trade ceased on March 31st, 1903, and was replaced by the South Wales and Monmouthshire Coal Conciliation Board. In June 1904 an attempt was made to establish a sliding scale agreement within maximum and minimum points for the coal industry of the Federated Mining districts, but it was unsuccessful as the parties were unable to agree to a basis between selling prices and wages.* At the present time the only sliding scales in the mining and quarrying trades are those used by two single firms in the iron-mining and lime-quarrying industries, and the use of sliding scales is now almost entirely limited to the pig iron manufacture and the iron and steel trades. In the former there are eight, by which the Cleveland and Durham, Cumberland and North Lancashire, North Staffordshire, South Staffordshire, and Scottish Blastfurnacemen, besides those of three single firms, are affected. In the latter there are nine, affecting the North of England, Midlands,† South Lancashire and

* See the Coal Conciliation Board, *Manchester Guardian*, 23 June, 1904.

† Since this passage was written, three months' notice was given on September 10th, 1904, by the workmen—20,000 employed by 156 firms—to terminate the sliding scale agreement in the Midland Iron Trade. It is the basis, which was fixed in 1887, which has caused the dissatisfaction, and it is very possible that some new agreement will be come to.

TABLE SHOWING THE METHODS BY WHICH CHANGES IN WAGES WERE ARRANGED IN THE IRON AND STEEL INDUSTRIES, 1896–1903.*

	1896.	1897.	1898.	1899.	1900.	1901.	1902.	1903.
Without Strike:								
Under Sliding Scales	35,400	35,618	42,920	52,399	58,253	55,708	32,651	22,817
By Conciliation or Mediation	5,000	3,500	2,183	2,533	–	3,120	20,000	–
By Arbitration	–	35	–	343	521	–	–	309
By Mutual Arrangement or otherwise	7,379	2,084	7,875	22,041	12,230	9,973	842	366
Total	47,779	41,237	52,978	77,316	71,004	68,801	53,493	23,492
After Strike:								
By Conciliation or Mediation	–	–	–	–	–	–	–	–
By Arbitration	–	1,903	–	–	–	350	–	–
By Mutual Arrangement or otherwise	29	115	109	52	90	858	–	–
Total	29	2,018	109	52	90	1,208	–	–

* Compiled from the Reports on Changes in Wages and Hours.

South Yorkshire, and West of Scotland Iron Workers, the Consett and Jarrow Steel Millmen, and the Steel Workers of four single firms.* In these two branches of the metal trades sliding scales appear to have worked very successfully, and no one recognises this more fully than Mr. George Howell.†

"Those only who can remember the frequent strikes and rioting in the 'iron district' can realise the enormous change which has taken place under the reign of the 'North of England Conciliation and Arbitration Board' in the iron and steel trades, the 'Midland Wages Board' and other boards, which have come into existence since the first were organised."

The table on the preceding page, showing the methods by which changes in wages in the iron and steel industries were arranged, clearly illustrates the importance of the sliding scale in these trades. This will be seen even more easily from the following table, where the percentage of changes made under sliding scales, by other means without strike, and by all means after strike, are given :—

	1896.	1897.	1898.	1899.	1900.	1901.	1902.	1903.
Without Strike: Under Sliding Scales -	75	82	88	68	82	80	61	97
Otherwise -	25	13	12	32	18	18	39	3
After Strike -	0	5	0	0	0	2	0	0
Total -	100	100	100	100	100	100	100	100

* A complete list of existing sliding scales will be found in the Report on Standard Piece Rates, 1900, and in the Report on Changes in Wages and Hours, 1899. This list is brought up to date in subsequent Reports on Changes in Wages and Hours.

† Labour Legislation, Labour Movements, and Labour Leaders, p. 441.

TABLE SHOWING THE NUMBER OF PERSONS WHOSE WAGES WERE CHANGED AS A RESULT OF THE OPERATION OF SLIDING SCALES.*

	1896.	1897.	1898.	1899.	1900.	1901.	1902.	1903.
Mining & Quarrying -	100,888	100,000	126,083	125,619	125,636§	135,372‖	140,337¶	302
Metal, etc., Trades:								
Pig Iron Manufactures - -	†	7,822	8,747	10,703	14,737	14,667	†	13,648
Iron and Steel Trades - -	†	27,796	34,173	41,696	43,516	41,041	†	9,169
Total - -	35,400	35,618	42,920	52,399	58,253	55,708	32,651	22,817
Miscellaneous Trades -	–	–	–	–	–	125‡	–	–
Grand Total	136,288	135,618	169,003	178,018	183,889	191,205	172,988	23,119

* Compiled from the Reports on Changes in Wages and Hours.

† Only the total for metal, etc., trades is given for this year.

‡ The Report for 1901 describes the trade as glass, pottery, etc., but at no place do the Reports indicate that a sliding scale ever existed in this trade.

§ This includes 125,000 affected in the coal mining industry.

‖ This includes 135,000 affected in the coal mining industry.

¶ This includes 140,000 affected in the coal mining industry

Although it is in the iron and steel industries that sliding scales are of the greatest relative importance, it was in the mining and quarrying industries that the greatest number of people were affected by them during the last eight years.* The position of sliding scales in industry as a whole, as compared with conciliation boards and other methods of arranging wages, will be clearly seen from the table given below which shows the percentage of workpeople affected by changes in wages, according to the agencies arranging them. The replacement of the Sliding Scale in the South Wales Coal Industry by a Board of Conciliation will greatly tend to

TABLE SHOWING THE PERCENTAGE OF WORKPEOPLE AFFECTED BY CHANGES IN WAGES ACCORDING TO THE AGENCIES ARRANGING THEM.†

Agencies by which Changes in Wages were Arranged.	1896.	1897.	1898.	1899	1900.	1901.	1902.	1903.
Sliding Scales	22	23	17	15	16	21	19	3
Conciliation Boards, Joint Committees, Meditation and Arbitration	10	2	3	32	42	54	61	75
The parties concerned or their representatives	68	75	80	53	42	25	20	22
Total	100	100	100	100	100	100	100	100

* See the table on p. 70.

† The figures are compiled from the Reports on Changes in Wages and Hours.

reduce the percentage of changes in wages due to the operation of sliding scales. Whether this and any further reduction in the scope of sliding scales, which may take place in the future, are to be regarded as advantageous or disadvantageous to the industrial community at large, must entirely depend upon the nature and type of the system which takes its place.*

* For details on the subject of sliding scales the reader may consult the following:—Reports on Standard Piece Rates, where numerous sliding scale agreements will be found; the Annual Reports on Changes in Wages and Hours; the Reports of the American Industrial Commission; L. L. Price: Industrial Peace; Sliding Scales and Economic Theory, in the Report of the British Association, 1889, pp. 523–35; and review of Ashley's Adjustment of Wages, *Economic Journal*, September, 1903; J. E. C. Munro: Sliding Scales in the Coal Industry, in the Report of the British Association, 1885; Sliding Scales in the Iron Industry, in the Journal of the Manchester Statistical Society, 1885; and Sliding Scales in the Coal and Iron Industries, 1885–9; S. J. Chapman, Some Theoretical Objections to Sliding Scales, *Economic Journal*, June, 1903; W. J. Ashley, The Adjustment of Wages, a study in the coal and iron industries of Great Britain and America; N. P. Gilman, Sliding Scales, in Methods of Industrial Peace, pp. 129–48; W. Smart: Sliding Scales, in Studies in Economics, pp. 63–106; and Sliding Scales, art. in Palgrave's Dictionary of Political Economy; J. S. Jeans, Sliding Scales, in Conciliation and Arbitration in Labour Disputes, pp. 51–101; H. R. Smart, Miners' Wages and Sliding Scales; D. Jones, The Midland Iron and Steel Wages Board, in W. J. Ashley's British Industries; S. and B. Webb, History of Trade Unionism, pp. 484–6; C. D. Wright: the Amalgamated Association of Iron and Steel Workers, *Quarterly Journal of Economics*, July, 1893; and the National Amalgamated Association of Iron, Steel and Tin Workers, 1892–1901, *Quarterly Journal of Economics*, November, 1901; Sliding Scales, Particulars of past, present and proposed.

The United States.—I do not purpose entering into details of the whole system of voluntary conciliation and arbitration in the United States, but shall limit myself to two of the most interesting of the newer organisations.

The National Civic Federation.—As a result of the "Pullman Strike," the Civic Federation of Chicago was formed in 1894, and held its first conference on November 13th and 14th of that year. Gradually this Chicago organisation developed into theNational Civic Federation, which in its turn held its first conference at Chicago on November 17th and 18th, 1900, its second at New York on December 16th and 17th, 1901, and its third at New York on December 8th, 9th, and 10th, 1902. The first conference of the National Civic Federation, in an "Appeal to the American People," recommended the adoption of annual or semi-annual joint agreements and the creation of joint boards of conciliation. At the second conference an "Industrial Department of the National Civic Federation" was organised, and its objects were defined in a "Standard of Purpose." The chief of these were "to promote industrial peace and prosperity," "to endeavour to obviate and prevent strikes and lockouts," to encourage "mutual agreements as to conditions under which labour shall be performed," and "to act as a forum to adjust and decide upon questions at issue between workers and their employers." The department will not assume powers of arbitration unless such powers are conferred by both parties to a

dispute. Two by-laws of the committee are as follows :—

"Conciliation Committee. The chairman shall appoint a committee on conciliation to consist of nine members, three of whom shall be selected from each group, whose duty it shall be, upon notice from the chairman of a threatened strike or lockout of more than local magnitude, to use its good offices in restoring harmonious relations, reporting its action to the Executive Committee.

"Arbitration. Should the efforts of the Conciliation Committee prove ineffective, and should both parties to the dispute desire the services of the Executive Committee of this department, they may be invited to select two employers and two wage-earners from the said Executive Committee to serve as an arbitration board. Should the four find it necessary to appoint an umpire to finally decide the dispute, they may select a fifth member from the group representing the public."

The Executive Committee referred to above consists of forty-eight members,* sixteen on the part of the public, sixteen on the part of employers, and sixteen on the part of wage-earners. On the Executive Committee (September,1904) such men are to be found as Grover Cleveland, ex-president of the United States, Andrew Carnegie, Archbishop John Ireland of the R. C. Church St. Paul, Bishop Potter of the Protestant Episcopal Church of New York City, and Samuel Gompers, president of the American Federation of Labour. These few names suffice to show the very general interest taken in the National Civic Federation.

* The original number was thirty-six, but it has since been increased.

The Conciliation Committee to deal with Strikes and Lockouts was organised in March, 1902. It has done all its best work through conciliation and mediation, and as the purpose of this work would naturally be defeated if given publicity, little is generally known of what the committee has really done. It appears, however, that more than 100 cases were dealt with during the first year of the committee's existence, and in a large proportion of these cases the committee's efforts were entirely successful.

The most accessible impartial evidence we possess, dealing with the National Civic Federation in general, is in the Report of the Mosely Industrial Commission. Mr. Mosely in his introduction, says that the delegates were much impressed and interested by this organisation. The following document was signed by all the delegates present in New York at the time the question was being discussed there :—

" In the course of our travels and investigations in the United States of America, the excellent results achieved by the National Civic Federation of America have been brought to our notice ; the Federation having been successful among other things in bringing capital and labour into closer touch, thus providing a practical solution of many of the difficulties and vexed questions which arise between the two."

" One of the most important features of the Federation is the Section, whose duty is to get information on the first sign of pending trouble, and in the earliest stages of a dispute to step in for the purpose of bringing the contending parties together at a round-table conference before any breach has actually taken place and before

either side has assumed a position from which it can recede only with difficulty, and in our opinion it would be a benefit to both workers and employers were some similar organisation brought into being in Great Britain."

"In expressing this view, we do not desire in any way to interfere with the bodies which already exist for mediation and conciliation in the Board of Trade, Chambers of Commerce, Trade Conciliation Boards, etc., or agreements between employers' associations and workmen's organisations, but if possible to establish a further means, not so much for the adjustment of troubles after they have arisen, as for their prevention."

"As representatives of our respective Trade Unions it will be our duty, on our return to our own country, to place before our members the object of this branch of the work of the Civic Federation, and we also hope to have the co-operation of other trade organisations, large and small, throughout the United Kingdom."

Deferring all comment on those parts of the above document, which refer to the establishment of a National Civic Federation in the United Kingdom to the concluding Chapter, I quote the personal opinions of one or two of the delegates. Mr. P. Walls, of the National Federation of Blast-furnacemen, writes as follows: *

"If I thought that such a body (*i.e.* the Civic Federation) would attempt to assume the *rôle* of arbitrator or in any way interfere in the technicalities of a dispute, I would have nothing to do with it; but its sole function is to use every means possible to bring contending parties together, particularly before the real rupture takes place or before it becomes too great to be easily healed. I have no hesitation in saying that had there been a

* Report of the Mosely Industrial Commission, p. 20.

similar institution in this country, it would have saved many thousands of pounds to both capital and labour and many a bitter tear."

Mr. Geo. N. Barnes, of the Amalgamated Society of Engineers, writes :*

"I believe that a Civic Federation anywhere is a good thing, if founded on the principle of free public conference and discussion, on the part of men honestly trying to find a way out of industrial and social ills and provided it does not in any way weaken organisation."

The opinion of Mr. D. C. Cummings, of the Iron and Steel Shipbuilders' and Boilermakers' Society, is as follows :†

"I heartily approve of the formation of such bodies as the Civic Federation and would at all times lend my assistance to the formation of any similar body at home, having for its object the obtaining of Industrial Peace by reason and common sense, aided by intelligent public opinion. The formation in Great Britain of a body similar to the Civic Federation is well worthy of a trial."

The chorus of hearty approval with which the National Civic Federation is greeted, clearly shows that it is doing good work, and this no doubt is largely due to the relative lack of other voluntary systems of conciliation and arbitration in the United States. Voluntary systems of very considerable importance do of course exist and do good work, and if no mention of them is made here, it is only because there is nothing so peculiar about them, as to justify a claim

* Report of the Mosely Industrial Commission, p. 77.
† Report of the Mosely Industrial Commission, p. 89.

upon the very limited space at my disposal.* It will be seen that the principle on which the National Civic Federation rests, is the equality of interest in industrial disputes of employers, employees and the general public. It is upon this same principle that compulsory arbitration is largely based, but the method of solving the difficulties in the two cases is as different as can be. The National Civic Federation stands essentially for conciliation, and no well-wisher of industrial peace could withhold his support from it. It would seem doubtful whether similar institutions would succeed equally well in other countries. The success of the organisation depends largely upon a relative want of conciliation facilities; upon employers and employees having

* The best general account of private conciliation and arbitration in the United States will be found in the French Report, De la Conciliation et de l'Arbitrage, etc., and in the Reports of the American Industrial Commission. The account in the Reports of the Royal Commission on Labour is very short. J. D. Weeks, Industrial Conciliation and Arbitration in New York, Ohio and Pennsylvania, deals with the subject thoroughly up to 1880. Gilman, Industrial Peace, gives more recent information on one or two points than any of the above reports. For details of what is taking place in special industries the reader may consult the following: T. A. Carroll, Conciliation and Arbitration in the Boot and Shoe Trade, in the Bulletin of the U.S. Department of Labour for January, 1897; as well as the articles in Peters, Labour and Capital: O. M. Eidlitz, Voluntary Arbitration: Experience in the building trades; H. W. Hoyt, Voluntary Arbitration: Experience of the Founders; W. L. Douglas, Voluntary Arbitration: Experience of a Shoe Factory; T. J. Hogan, Voluntary Arbitration: Experience of Stove Manufacturers; and M. Fox, Voluntary Arbitration: Experience of Iron Moulders.

reached a stage where they prefer peaceful to warlike methods of settling disputes, and where the right spirit of friendliness and sympathy exists between them, which is so essential to successful conciliation; and upon the public being sufficiently interested in industrial affairs and understanding them well enough to be able to form a correct opinion of any case, when supplied with full information and being willing to give their moral support to the party they consider in the right. In Chapter VIII. a short discussion will be found, as to whether conditions exist in the United Kingdom, favorable to the establishment of a Civic Federation. With regard to other countries, it is difficult to say anything definite, as much of the information is lacking, upon which an opinion could be based.*

The Chicago Board of Arbitration.†—One of the most recent private boards of arbitration in the United States is the Chicago Board of Arbitration. The Board was completed in June, 1902, and is composed of the heads of seven employers' associations and the heads of the seven corresponding labour organisations, all being connected with the "teaming" industry. The manner in which this board becomes involved in a strike is very interesting, and turns upon the fact that there are few

* For details about the National Civic Federation the reader may consult the Reports of the Conferences held under its auspices (*see* Bibliography); the *Monthly Review*, the periodic publication of the Federation: and the Report of the Mosely Industrial Commission.

† For details see the *Monthly Review*, April, 1903.

industries in the country which do not employ teamsters. The common mode of procedure is as follows. When a strike occurs on the plant of a manufacturing company, the strikers at once throw out picket lines. As soon as a teamster appears with a load of coal or flour, or starts away with a load of the manufacturer's product, the picket intercedes on behalf of the strikers, asking the driver to deliver nothing to or for the manufacturer. The teamster telephones to his local president and the manufacturer telephones to the team owner, who in turn notifies the president of the association for the subdivision of "teaming" concerned. Officers of both sides then go to the scene of the trouble and try to bring about, either a settlement, or the submission of the matter to their board of arbitration. If the conciliatory efforts of this joint committee are not successful and if the strike continues, the teamsters, honouring their contract with the team owners, decline to be interfered with by the pickets and continue their work.

The board, as one of its first duties, brings about, if possible, a conference between the two contending factions, and in these efforts, supported by the influence of its members and the standing it has attained in the eyes of the Chicago public, it is generally successful.

The man to whom the board owes its origin and its success is Mr. John C. Driscoll, who, as mediator, has settled many disputes without the board being called. According to the *Monthly Review*, settlements between individual team owners and teamsters

are occurring daily, from three to seven cases or disputes being handled every day in Mr. Driscoll's rooms. A good many of the cases dealt with by the board are mentioned in the *Monthly Review* for April, 1903, and nothing is more remarkable than the success which has attended the efforts of the board and Mr. Driscoll in settling disputes after strikes have already begun. It appears that nearly every dispute which has arisen in Chicago in any line has been settled by the board in a manner satisfactory to both sides.

Other Countries.—Generally speaking, private conciliation and arbitration are developed to a very small extent only in countries other than the United Kingdom and the United States. The French system is fairly well developed; in Belgium there is one good example in the "Chambers of Explanations" of the collieries of Mariemont and Bascoup, and these owe their origin to Mr. Julien Weiler, a mining engineer at the collieries, who helped to organise the chambers in 1877. In Germany there is practically no private conciliation and arbitration at all. It is noteworthy that in all these three countries there exist systems of Government conciliation and arbitration for disputes arising out of existing contracts, as well as for disputes arising out of the terms of future contracts.*

* For details of the systems of private conciliation and arbitration in France, Belgium and Germany the following may be consulted: Reports of the Royal Commission on Labour, De la Conciliation et de l'Arbitrage, etc., and the Reports of the American Industrial Commission. (What German system does exist is omitted in these reports as too unimportant to be mentioned.)

CHAPTER V.

VOLUNTARY *v.* COMPULSORY STATE CONCILIATION AND ARBITRATION.

ANY one investigating the subject of industrial conciliation and arbitration some ten years ago or more, was in the fortunate position of being able to dismiss the question of compulsion in the briefest manner.* Now the position is very different. No essay on conciliation and arbitration would be complete without a discussion of this very important question. It has passed out of the realm of theory into that of practice, and it can no longer be said of it that it is not "definite or practical enough to bear serious examination." On the contrary, the problem has assumed such importance as to require a double discussion; in the first place, it is necessary to

* The following passage from the Recommendations of the Royal Commission on Labour, Fifth and Final Report (1894), Part I., §299, may be quoted as an illustration:—

"In the case of the larger and more serious disputes arising with regard to the terms of future agreements, frequently between large bodies of workmen on the one side and employers on the other, we have had to consider, in the first place, suggestions for the compulsory reference of such disputes to State or other boards of arbitration, whose awards should be legally enforceable. No such proposal, however, appeared to us to be definite or practical enough to bear serious examination."

consider theoretically, whether compulsory arbitration is desirable, and whether it is feasible in a large industrial country; and in the second place, practically, what success it has achieved in Australasia, where it has been at work for several years. In this chapter the various kinds of Government conciliation and arbitration are to be discussed, and the theoretical questions connected with compulsory arbitration will receive particular attention; the next two chapters will be devoted to the consideration of practical legislation.

Although all State arbitration can be classified as voluntary or compulsory, it is necessary to recognise that it can take various forms, in each of which the degree of compulsion may differ, though for practical purposes the term compulsory arbitration is applied to the one kind only, in which the parties to a dispute are obliged to refer it to arbitration and the decision is legally enforceable. This will be referred to again below, and here I wish to enter into the question of the kinds of Government conciliation and arbitration by considering the recommendations of the United States Industrial Commission with regard to the various proposals for extending the practice of conciliation and arbitration, and making it more effective by means of legislation.

The first proposal considered by the United States Industrial Commission was that for the establishment of State boards and the increase of their powers. The commission was of the opinion, that results of no little importance could be accomplished by such

boards had they adequate powers, particularly with regard to the right of calling for evidence. The serious effect of prolonged industrial disputes upon the public welfare may justify a certain degree of inquisitorial investigation, especially as to some classes of disputes, such as those affecting quasi-public industries, or those involving large numbers of persons, or those resulting in violence or other serious public injury. The commission suggested the establishment of a national board of arbitration and conciliation, composed of persons familiar with the conditions of labour and industry, who would devote their whole time to these duties alone and who could supplement in many ways the work of State boards.

The second proposal, which came before the commission, was one to extend by means of legislation voluntary methods of collective bargaining, arbitration and conciliation within the several trades themselves. Whilst recognising the desirability of extending voluntary methods of adjusting differences as to labour matters, the commission was of the opinion that mere legal authorisation of such methods had no significance, seeing that all such laws in the past had proved dead letters. On the other hand, State boards may encourage employers and employees to establish voluntary boards of a more informal character. It is both practicable and desirable that some department of State should obtain and publish as complete information as possible concerning the working of voluntary systems; and it might even be desirable for the State to require those who

participate in such systems, to report from time to time to the State authorities.

It is interesting at this point to compare the recommendations of the American Industrial Commission with those of the Royal Commission on Labour. The latter was opposed to the establishment of State boards, but expressed the belief that a central department, possessed of an adequate staff, might do much by advice and assistance to promote the more rapid and universal establishment of trade and district boards, adapted to circumstances of various kinds. On this point, it will be seen, the American Commission practically confirmed the recommendation of its English predecessor.*

The third proposal placed before the Industrial Commission was one dealing with the enforcement of voluntary agreements between employers and organisations of employees, and of the decisions of arbitrators, where the parties to disputes voluntarily submit to arbitration. In favour of this it was urged, that the responsibility of both parties in collective bargaining and arbitration would be greatly increased, and that employers and employees, who are now unwilling to resort to these methods, because they have no certainty that the agreements and awards will be carried out, would be more inclined to enter into them. On the other hand, many employers

* The recommendations of the English and American Commissions will be found respectively in the Fifth and Final Report of the Royal Commission on Labour, Part I., and in the Nineteenth and Final Report of the Industrial Commission.

and a large majority of working men are opposed to compulsory enforcement of agreements and awards of arbitrators. Boards in the past, which were equipped with powers to render legally enforceable decisions, have not been successful. Nevertheless the commission expressed the opinion that permissive measures, enabling those employers and employees who desired to do so to enter into legally enforceable agreements, would be advantageous.

The fourth proposal considered by the commission was one to compel efforts towards the settlement of disputes by conciliation and arbitration, before the cessation of employment by either the employer or the employees. The commission seemed to be favourable to this suggestion in theory, but strongly doubted whether it is practicable. It was of the opinion that the success of conciliation and arbitration depends primarily upon their being voluntary; but even leaving this question aside, the workmen would be opposed to the suggestion, because prompt action in striking is often a condition of success. There would also be difficulty in applying such a measure to cases where union and non-union men were employed in the same establishment, for there might be a division between them, as to a selection of arbitrators or as to other causes of action. In the same way, employers and employees in different works and different localities might not agree. Lastly, the system would encounter, to a considerable extent, the same difficulty in enforcement as compulsory arbitration itself. In the face of these difficulties the

commission recommended, that should it be found desirable to enact some legislation of the kind indicated, it would be as well to limit the measure to the quasi-public services, such as transportation, and to those of unusual influence upon the public welfare.

The last proposal considered was one for compulsory arbitration with legal enforcement of decisions. The commission expressed itself as unfavourable to compulsory arbitration proper, though it considered that it might be desirable to adopt it with regard to interstate carriers, provided the principle of limited compulsory arbitration was generally adopted.

Having now seen the various forms which State interference in industrial disputes can take, we may proceed to examine more closely the case for and against compulsory arbitration. Firstly, we may ask ourselves, on what grounds compulsory arbitration has been put forward as a remedy for industrial warfare. Those in favour of compulsory arbitration state their case somewhat as follows: Industrial warfare is exceedingly expensive and involves in loss, not only the parties concerned in the dispute, but also the general public. Hence the latter is fully justified in seeking a solution for the evil. Private conciliation and arbitration have failed; voluntary State conciliation and arbitration have failed; nothing remains but compulsory arbitration.

Admitting freely that strikes and lockouts are a great evil, and that the general public is justified in trying to find a remedy, we may turn our attention to the statement that voluntary conciliation and arbitration

of all kinds have failed. The Hon. W. P. Reeves* has attempted to show that England's position in this respect is very undesirable. "Voluntary arrangement has been earnestly urged and patiently tried for many years in England. What is the outcome? Eleven thousand strikes in thirteen years." It is hardly necessary to remind the reader that a single figure produced like this one to prove the failure of voluntary conciliation and arbitration in England, can carry no conviction with it at all. Statistics are only valuable in economics if they offer a field for comparison, and it is very noticeable that Mr. Reeves produces no such figures at all; for had he done so, the great growth of industrial peace in England during recent years would have been evident.† Comparative statistics tend to show that voluntary conciliation and arbitration have been exceedingly successful in Great Britain, and none of Mr. Reeves's arguments appear to be convincing. He seems to imply that all cases which the permanent conciliation boards consider, but do not settle, are proofs of failure on the part of the boards. As a matter of fact, a large number of cases are settled by mutual agreement between the parties and are withdrawn, which shows that the services of the boards were not necessary. Again, Mr. Reeves considers the fact, that most of the cases dealt with involved no stoppage of work, as another

* State Experiments in Australia and New Zealand, Vol. II., pp. 69–85.

† This point will be considered in detail in the concluding chapter.

sign of failure, whilst in reality it is one of the most satisfactory features about the whole work of the boards.*

This same gentleman in attempting to estimate the value of the Conciliation Act, 1896, from his New Zealand standpoint of "Industrial peace at any price," naturally misjudges its value. "The English Conciliation Act, has proved useless either to prevent or to compose the more serious labour conflicts; when put to anything like a severe test it has simply failed." The Act is essentially complementary to the English private system of conciliation and arbitration, and the small number of cases which have arisen under it proves the perfection of the trade boards. It never was intended to "settle or compose the more serious labour conflicts." There are certain industrial disputes which nothing but a strike can settle satisfactorily, though some people refuse to recognise this. No better example of such a dispute could be given than the one taken by Mr. Reeves to prove the failure of the Conciliation Act,

* The passage I refer to is in "State Experiments in Australia and New Zealand" (II. 77): "In the annual report of the English Board of Trade of strikes and lockouts in 1899 it is mentioned that fifty-three permanent Conciliation Boards considered 1,232 cases and managed to settle 675 of them. The report frankly admits, however, that very few of these cases involved a stoppage of work, and pleads that 'the main work of the agencies for conciliation and arbitration is the settlement, not of strikes or lockouts, but of questions which might otherwise lead to them,' !!

viz., the engineering conflict of 1897.* Forty-seven thousand five hundred men struck demanding an eight hours day and the employers of all these men refused the demand. There was no question of right and wrong, of justice or injustice, about a dispute like this one, and no court of arbitration was competent to solve it. Mr. Reeves calls the unsuccessful intervention of the Board of Trade an illustration of the failure of the Act. The only thing it really shows is that the Board of Trade was mistaken in offering its services in a dispute where any satisfactory solution, other than that brought about by a strike, was impossible.

So far I have attempted to show that the upholders of compulsory arbitration are wrong in asserting that voluntary conciliation and arbitration are a failure, and in basing a need for compulsion upon this. The real question of the justification of compulsory arbitration cannot lie in the success or failure of voluntary conciliation and arbitration, but only in the intrinsic value of the thing itself. Opponents of compulsory arbitration are legion, and amongst them no one is in a better position to understand fully the problem than Col. Carroll D. Wright, the well-known Commissioner of the United States Department of Labour. It is in his words that I first wish to introduce to the

* A good account of the causes leading up to the strike and of the strike itself will be found in M'Pherson, Voluntary Conciliation and Arbitration in Great Britain.

reader some of the objections to compulsory arbitration.*

"Without discussing the incongruity of the term, you might as well speak of voluntary coercion as compulsory arbitration—the first economic result of compulsory arbitration would be to compel the manufacturer, for instance, to pay a certain wage under penalties of law, which is a very distinct attempt to establish wages by law, and hence prices; and any compulsory arbitration law ought to provide that if the prices are not paid, such as would be necessitated by the lawful wage, the purchaser would be held responsible in some way. And, on the other hand, it would compel the employee to work for a wage which he did not wish to, and hold him responsible under some form of penalty for not working for 1.80$ or 2$—1.80$ when he was getting 2$—and there is no law big enough to put everybody in jail. Some would have to be left outside. Every time any country has attempted to fix wages by law, whether in America or Europe, there has been a very contemptible failure. The second effect of compulsory arbitration would be to compel the employer to shut up his works, and all employees, if they did not like the decision, to quit work and leave the country. The third would be, if the manufacturer saw fit to carry on his works under the decision of a court of compulsory arbitration, to compel him to join a trust immediately, and I think if the government ever wants to drive everybody into the trust form of carrying on business, compulsory arbitration would be perfectly satisfactory. It seems to me it would kill industry. I have no faith in it either from a moral or an economic point of view. I have always so expressed myself. It is a doctrine

* The following passage is taken from the evidence given by Colonel Wright, before the United States Industrial Commission and will be found in the Reports of the Commission, Vol. VII. pp. 11 and 12.

which, so far as I know, finds no approval of organised labour anywhere. I have never known of any Trade Unionist or member of a labour organisation of whatever character, to approve compulsory arbitration. There may have been cases. Certainly the employer would not approve it. While I believe in arbitration as a help, never as a solution of labour problems, it seems to me that compulsory arbitration would be a positive injury."

The reader will probably ask, what answer would a believer in compulsory arbitration make to the objections of Colonel Wright? He would very likely reply somewhat to this effect: Compulsory arbitration does not oblige an employer to pay wages above those he wishes to pay, or to work under conditions he does not choose to work under. It simply says, if you wish to continue to work, you must pay those wages and work under those conditions which the award prescribes. In the same way, no employee needs to accept any wage unless he chooses, only if he wishes to have work, he must be satisfied with the wage laid down by the award. Further he would proceed to argue, that trusts have not been encouraged in New Zealand,* and that if there was one party in that country which liked compulsory arbitration it certainly was the trade unionist. Hence Col. Wright must be mistaken,

* Since writing this passage I have discovered that the New Zealand Department of Labour has recently issued a report dealing with trusts and combinations, which seems to indicate that New Zealand has seen a large growth of this form of industrial organisation in recent years.

when he says no labour organisation approves of compulsory arbitration.

Taking the points of this imaginary reply in turn, the very first thing which strikes one is, that whenever an employer has invested his capital in buildings and machinery, he cannot cease to continue his business at a moment's notice without involving himself in ruinous loss. This is, however, the only alternative to accepting a compulsory arbitration award. The chances are, therefore, that an employer will continue his business and pay wages which the condition of trade does not justify. This cannot continue long, and the following alternatives will present themselves to the employer: either he must withdraw all the capital possible from the business and go and set up elsewhere, or he must raise his prices. It is this latter alternative, as we shall see in Chapter VII., which has happened in New Zealand. The position of the workman is different from that of the employer. There are no ties of capital to retain him in any given business, so that if adverse awards were made—which so far practically never has been the case—he might refuse to continue work and try his luck elsewhere. He would probably find the same wages and conditions prevailing everywhere in the country, and emigration would apparently be the only remedy, if the employers were not voluntarily ready to improve the conditions and raise wages. Compulsory arbitration may not have directly encouraged trust formation in New Zealand, but indirectly, at least, it must have fostered

understandings among employers, for otherwise prices could certainly not have risen as they have done.

The last point, the attitude of trade unionists towards compulsory arbitration, is not quite simple. There is no doubt that some unions and unionists are in favour of compulsory arbitration, but it will always be noticed that it is the weakest unions which are so. The reason of this is not very difficult to find. Compulsory arbitration and trade unionism are irreconcilable. They are two things trying to achieve the same end by different methods. The one depends upon the power and authority of the State, the other upon the influence acquired by a limited number of persons acting together. The former tends to take away all the liberty of action, which the latter is ever struggling to gain. It is only natural that powerful unions of long standing should be opposed to compulsory arbitration; the younger and weaker ones, however, sometimes believe that they see in it a quick means to acquire the advantages at present enjoyed by the older ones. As a matter of fact, they would probably lose what position they have and degenerate and split up into the petty dispute-loving "industrial unions" of Australasia, from which all the best characteristics of the English trade unions, the excellent educational work and the insurance facilities against accidents, sickness and want of work, are entirely missing.

The attitude of English trade unions is best shown by the voting at the 1903 Trades Union Congress

upon the following compulsory arbitration resolution* :—

"That in the opinion of this Congress courts of compulsory arbitration shall be constituted by equal numbers of employers' and workmen's representatives, the latter to be selected by ballot of union members affiliated to this Congress, each union being entitled to nominate a candidate for the office of arbitrator. The courts so constituted to be presided over by a Lord Justice. Such courts as are necessary to embrace the great trades of mining, agriculture, textile, transport, engineering, building and general trades. The decisions of the courts to be final and to cover a period of at least one year, or such period as may be agreed upon by mutual consent of the parties interested. The courts so established to be movable courts, to take evidence, when advisable, in any district or centre of industry affected. All documents necessary, dealing with wages, profits, or management, shall be produced under penalty of imprisonment. Only unions agreeing to come under jurisdiction of Compulsory Arbitration Court to have the right of nomination or election of Commissioners for the several courts."

A vote by card on the above resolution produced the following result :—

	Votes.
For the resolution - - - -	251,000
Against - - - - - -	899,000
Majority against - - - -	648,000

The above voting clearly shows that English unionists are largely opposed to compulsory arbitration. The American unionists are so to a still greater

* Thirty-sixth Annual Report of the Trades Union Congress, 1903, p. 84.

extent, and the National Civic Federation of America, representing employers, employees and the general public, is no less opposed to it.

"The second conference was held at Chicago, December 17th and 18th, 1900, under the auspices of the National Civic Federation . . . Much interest was taken in the discussion of compulsory arbitration, and the conference resulted in practically deciding that, for the United States at least, the proper line of progress should be in the direction not of compulsory arbitration, but of voluntary conciliation."*

The objections of trade unionists to compulsory arbitration rest chiefly upon the opposition between it and trade unionism; there are, however, certain fundamental objections which the economist and the politician cannot ignore. In the first place, it is very probable that the wrong wage will be paid. The reader may say, this does not matter very much, because over a long period the arbitrators will be as frequently right as wrong. This is not the case, because the most important function of the wage is not so much to form an adequate remuneration for work done, as to determine the scale of an industry; compulsory arbitration tends entirely to destroy the sensitive relation which should exist between demand and the organisation of production. This is the great economic objection to compulsory arbitration. The political one is of a very different character. Boards of arbitration,

* Report of the Proceedings of the Conference held under the auspices of the National Civic Federation in New York, December 16 and 17, 1901, pp. iii. and iv.

resort to which and the awards of which are enforced by law, whose presidents are appointed by the Government, and whose members are elected according to law, will soon cause people to regard wages as a political matter. A strike will become a mutiny, which is very undesirable, and changes in government become bread-and-butter questions, which is hardly less undesirable, and is above all serious in the case of the rising generation, which, knowing no other system, will come to look upon the government as the provider of the weekly wage. Wages become a political question, and all discontent is concentrated against the government.

Besides these fundamental objections to compulsory arbitration, there are others, such as the question of the enforcement of decisions, which cannot be entered into without drawing freely upon the results of the working of compulsory arbitration in New Zealand and New South Wales, and consequently the remainder of the discussion will be left over till Chapter VII. Before considering the subject of practical legislation, I should like to remind the reader of two important maxims :—

"The first essential to success in constructing or developing any system of laws, is that such system shall be in conformity with the conditions, ideals and traditions of the community for which it is designed. A system of legislation designed to regulate the relations of labour and capital may work well in Australasia, but it by no means follows that a similar

system would work well in England or the United States."*

The second maxim is also embodied in the words of a well-known economist † :—

"When we wish to judge the success of any piece of industrial legislation, we must not only take into consideration the degree of the achievement of the object, which the legislator had in view, when the Act was passed, but also any subtle and unforeseen effects, which the Act may have had on industry and society in general; and before we are able finally to decide whether any piece of legislation is good and desirable, the evil effects must be set off against the good effects, and it must be found out on which side the balance lies."

If the reader bears these two maxims in mind, when reading the next two chapters, he may save himself from making false deductions as might otherwise easily happen.

* C. F. Adams, in a paper read before the Conference held under the auspices of the National Civic Federation, at New York, 8, 9 and 10 December, 1902.

† W. S. Jevons, State in Relation to Labour.

CHAPTER VI.

VOLUNTARY STATE CONCILIATION AND ARBITRATION.

English Legislation.—The earliest English Act concerning arbitration was passed in 1603, but the first statute referring especially to the arbitration of labour disputes is 1 Anne c. 22, passed in 1701.* During the course of the 18th century two further statutes were passed, both giving summary jurisdiction to justices of the peace to determine disputes between masters and servants in certain circumstances. 20 Geo. II. c. 19 did so, when the term of the hiring was one year or longer, even though no rate of wages had been fixed that year by the justices of the peace of the shire. By 31 Geo. II. c. 11 the powers of the justices of the peace were extended to agricultural labourers, but they might interfere only in disputes arising during the currency of the hiring, and had no power to bind servants beyond that term. Besides these two principal enactments of the 18th century, other less important ones provided for the settlement of disputes in the

* These two acts are referred to in the Reports of the American Industrial Commission, Vol. XVI., p. 172, but Jevons in his "State in Relation to Labour" does not mention them. Numerous details of early legislation previous to 1824 are given in G. Howell, "Labour Legislation, Labour Movements, and Labour Leaders," pp. 433–6. See also Chapman, Lancashire Cotton Industry, p. 185.

cotton trade. The first arbitration Act of the 19th century, 43 Geo. III. c. 151, also dealt with disputes in the cotton industry. The most interesting thing about all this early legislation for the settlement of disputes by arbitration between masters and workmen is, that it was attended with good effect, so that the committee, which sat in 1824, to inquire into the state of English labour legislation, thought it desirable that the laws which regulated and directed arbitration should be consolidated, amended and made applicable to all trades.*

In consequence of the recommendations of this committee, an Act was passed in 1824, 5 Geo. IV. c. 96, based upon the French law for the establishment of the Councils of Prud'hommes. No permanent boards were established, but a justice of the peace was to act as referee or appoint someone else to do so. The operation of the Act was restricted to certain trades and certain subjects.† By this Act no referee

* See Leoni Levi, History of British Commerce, London, 1880, pp. 176–7.

† The following disputes might be settled and adjusted under the Act of 1824:—

"Disagreements respecting the price to be paid for work done or in the course of being done, whether such disputes shall happen and arise between them respecting the payment of wages as agreed upon, or the hours of work as agreed upon, or any injury or damages done or alleged to have been done to the work, or respecting any delay or supposed delay in finishing the work or not finishing the work in a good and workman-like manner, or according to any contract or to bad materials; cases where workmen are to be employed to work any new pattern which shall require them to purchase any new implements of manufacture or to make any alteration upon the old implements for the working thereof, and

could establish a rate of wages or price of labour at which a workman should in future be paid, unless with the mutual consent of both masters and workmen. In these cases, however, the agreement was to be valid, and the award final and conclusive between the parties. Such awards, as in cases of awards dealing with disputes within the jurisdiction of the referee, might be enforced by sale, distress or imprisonment.* During the twenty years immediately following the passing of the Act, three small Amendment Acts were passed.† None of these appears to have been of much

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the masters and workmen cannot agree upon the compensation to be made to such workmen for or in respect thereof; disputes respecting the length, breadth or quality of pieces of goods, or in the case of cotton manufacture, the yarn thereof or the quantity or the quality of the wool thereof; disputes respecting the wages or the compensation to be paid for pieces of goods that are made of any great or extraordinary length; disputes in the cotton manufacture respecting the manufacture of cravats, shawls, policat, romal and other handkerchiefs; disputes arising out of, for or touching the particular trade or manufacture, or contracts relative thereto, which cannot be otherwise mutually adjusted or settled; disputes between masters and persons engaged in sizing or ornamenting goods; provided always that all complaints by any workman as to bad materials shall be made within three weeks of his receiving the same, and all complaints arising from any other cause shall be made within six days after such cause of complaint shall arise.'

* This point has been dealt with more fully above. See p. 48 n.

† The three Statutes referred to were: 7 Will. IV. and I Vict. c. 67, 8 and 9 Vict. c. 77, and 8 and 9 Vict. c. 128. The first of these extended the time for complaints by workmen, other than as to bad materials, from six to fourteen days; the second made further regulations as to the tickets of work to be delivered to persons employed in the manufacture of hosiery, and the third, similar regulations with regard to silk weavers.

avail, for a Committee appointed by the House of Commons in 1856* found that the Act of 1824 was entirely ignored by the people. The reasons to which they attributed this failure were, firstly, the objection people had to appear before magistrates; secondly, the fact that the Justices of the Peace appointed the referee only when the dispute was submitted to him, and people objected to submitting to the decision of an unknown man; and lastly, the workmen often had no confidence in the choice of arbitrators made by magistrates, whom they suspected of not being impartial. The Committee proposed that a modification of the existing law should be made, and that Courts should be set up, capable of dealing only with disputes arising out of existing contracts.

It was more than ten years before anything came of these proposals, for it was not until 1867 that what is known as Lord St. Leonard's Act was passed. This was "an Act to establish equitable councils of conciliation to adjust differences between masters and men." Councils were to be formed under licence of the Home Secretary, granted upon the petition of masters and men in any particular trade or place. The Councils were not to consist of fewer than two masters and two workmen, and of not more than ten of each. The Act provided for the appointment of a chairman, who was unconnected with the trade. The chairman, one master, and one workman were to form a quorum and be able to make awards. The Council was to appoint a Committee of Conciliation consisting

* *See* De la Conciliation et de l'Arbitrage, etc., p. 21.

of one workman and one master, and only if these were unsuccessful was a dispute to be remitted to the Council, which might settle any dispute set forth in the Act of 1824,* submitted to them by either party, or any dispute whatever submitted to them by mutual consent. No lawyer was to attend any sitting of the Committee or Council unless agreed to by both sides. Awards were to be enforced according to the provisions of 5 Geo. IV. c. 96†

In 1872 the Masters and Workmen (Arbitration) Act was passed to make further provision for arbitration between employers and employees. By the Act, an agreement might be entered into between masters and workmen, undertaking to submit all disputes to arbitration concerning rates of wages to be paid, hours or qualities of work to be performed, or the conditions and regulations under which the work was to be done. Penalties might also be specified to be incurred upon the breach of any award, and these might be enforced by distress or imprisonment. Under the Act an agreement was to be made, when a workman accepted a copy of an agreement from a master, provided he did not give notice within 48 hours that he refused to be bound by it. The binding nature of the awards was almost removed by a clause providing that the agreement might not require more than six days' notice to be given by master or workman before such ceased to employ or be employed. To insure awards being made quickly, it was provided that the arbitrators were

* *See* footnote on p. 100.
† *See* footnote on p. 48.

to lose their jurisdiction over any particular case unless they heard and determined it within twenty-one days of the event from which the dispute arose. Under this Act the arbitrators were to have certain powers of summoning witnesses before them and of calling for the production of books, etc.

To show clearly what the intention of the Legislature was with regard to this Act, a memorandum immediately follows it in the book of Statutes and explains that its uses are briefly three; namely, (1) To provide the most simple machinery for a binding submission to arbitration and for the proceedings therein; (2) To extend facilities of arbitration to questions of wages, hours and other conditions of labour and; (3) To provide for the submission to arbitration of future disputes by anticipation, without waiting till the time when a dispute has actually arisen and the parties are too much excited to agree upon arbitrators.

The success of the Acts of 1867 and 1872 was no greater than that of the original Act of 1824, or in the words of the Final Report of the Royal Commission of Labour*: "The Acts of 1824 and 1867, together with the Arbitration (Masters and Workmen) Act, 1872, appear to have been complete failures." Mr. S. B. Boulton, Chairman of the London Labour Conciliation and Arbitration Board, in his evidence before the Royal Commission on Labour, expressed the opinion that the Act of 1867 had failed,

* § 155.

because it attempted to lay down restrictive regulations as to the constitution of the proposed industrial tribunals, and that the Act of 1872 had failed, because it was too vague, and did not contemplate existing concrete bodies.* In the second annual report of the said Board, we read, that "if these Acts have been almost or entirely inoperative it is probably in a great measure because the regulations respecting the formation of the councils have not been sufficiently elastic to meet the many and varied requirements of different districts and industries." To these causes of the failure of the Acts, we may undoubtedly add the strong objection of both masters and men to the legal character of proceedings under the Acts and above all, to the possibility of awards being enforced by sale, distress or imprisonment.

Ever since 1860 joint boards had been springing up in various industries throughout the country, but the Government, with the exception of the completely unsuccessful enactments mentioned above, had done nothing to assist industrial arbitration and conciliation. Early in the "nineties" a movement began, which emphasised the importance of boards of conciliation and called for legislation on the subject. In 1891 the Associated Chambers of Commerce and the Trades Union Congress passed resolutions in favour of conciliation boards. In 1892 the Congress of the Chambers of Commerce of the whole Empire passed a resolution recommending the formation of

* Royal Commission on Labour, Fifth and Final Report, Part I. §156.

properly constituted boards of labour, conciliation and arbitration in all important centres of industry and commerce throughout the Empire. The London Labour Conciliation and Arbitration Board was particularly active in demanding legislation. In 1893 a Bill was introduced into Parliament by Sir John Lubbock representing its views. The Bill provided for the registration of boards of conciliation and arbitration, consisting of equal numbers of representatives of employers and employed. Registered boards were to have the power to examine witnesses on oath, and to require all documents to be brought before them, except such as a witness could not be compelled to produce on a trial of an action, and the books and accounts of any Trade Union. The Bill was also practically to endow registered boards with powers very similar to those of the French Councils of Prud'hommes.*

It was in 1893 also, that Mr. A. J. Mundella, President of the Board of Trade, introduced his Bill for the promotion of voluntary boards of conciliation and arbitration, and other intervention by the Board of Trade. Neither of these Bills was passed in 1893, and both were re-introduced into Parliament in 1894 with slight modifications. It was in this same year that the Royal Commission on Labour issued its final report containing its recommendations. As we have already seen, the Commissioners expressed themselves as opposed to the investment of voluntary boards with

* These will be dealt with in detail under French Legislation. See page 116.

legal powers, but favoured proposals similar to those of Mr. Mundella. In their opinion a central department, possessed of an adequate staff, might do much by advice and assistance to promote the more rapid and universal establishment of trade and district boards, adapted to circumstances of various kinds. Such a department would, if it thought fit, inquire into the causes and circumstances of a dispute; invite the parties to a difference to meet together, with a view to an amicable settlement of the difference; and also, upon the receipt of a sufficient application from the parties interested in a dispute, or from the local boards of conciliation, appoint a suitable person to act as arbitrator.

In 1895 two Acts were again before Parliament, but it was not till August, 1896, that the Royal Assent was given to the Conciliation Act, which embodied the proposals of the Royal Commission on Labour. In the first place the Statute,* which is entitled "An Act to make better provision for the Prevention and Settlement of Trade Disputes," provides for the registration by the Board of Trade of any board established for the purpose of settling disputes between employers and workmen. A board apparently derives no advantages from registration under the Act, so that it is not surprising to find that the majority of the most important boards have not registered. By August, 1897, fifteen boards had registered; at the end of June, 1899, four further boards had registered, and the figure has remained at

* 59 and 60 Vict., ch. 30.

nineteen ever since. The majority of these boards—viz., ten—are district and general boards, and the reader will be able to convince himself, by referring to the figures given on page 54, that these particular boards have not been very active in the past in settling disputes, seeing that the average number of such boards settling disputes during the ten years, 1894–1903, was just two.

The provisions of the Act for the settlement of disputes are as follows* :—

"Where a difference exists or is apprehended between an employer, or any class of employers, and workmen, or between different classes of workmen, the Board of Trade may, if it think fit, exercise all or any of the following powers, namely :

"(1.) Inquire into the causes and circumstances of the difference.

"(2.) Take such steps as to the Board may seem expedient for the purpose of enabling the parties to the difference to meet together, by themselves or their representatives, under the presidency of a chairman mutually agreed upon, or nominated by the Board of Trade, or by some other person or body, with a view to the amicable settlement of the difference.

"(3.) On the application of employers or workmen interested, and after taking into consideration the existence and adequacy of the means available for conciliation in the district or trade and the circumstances of the case, appoint a person or persons to act as conciliator or as a board of conciliation.

"(4.) On the application of both parties to the difference, appoint an arbitrator."

* The Statute will be found printed in full at the end of the biennial Reports on the working of the Act, the last of which appeared in 1903 (Cd. 1846).

"If any person is so appointed to act as conciliator, he shall inquire into the causes and circumstances of the difference by communication with the parties, and otherwise shall endeavour to bring about a settlement of the difference, and shall report his proceedings to the Board of Trade.

"If a settlement of the difference is effected either by conciliation or by arbitration, a memorandum of the terms thereof shall be drawn up and signed by the parties or their representatives, and a copy thereof shall be delivered to and kept by the Board of Trade."

It now remains for us to consider what results have been achieved by this Act. The tables which follow show us the number of cases which have been dealt with and analyse the figures in three different ways.

TABLE SHOWING THE SOURCES OF APPLICATIONS RECEIVED UNDER THE CONCILIATION ACT, 1896, AUGUST, 1896, TO JUNE, 1903.*

Source of Applications.	Number of Applications.				
	Aug. '96 to June '97.	July '97 to June '99.	July '99 to June '01.	July '01 to June '03.	Total.
Applications from both sides	6	12	24	29	71
Applications from Employers only	9	4	3	4	20
Applications from Workmen only.	16	14	16	8	54
Actions taken without application	4	2	3	–	9
Total	35	32	46	41	154

* Compiled from the Reports of the Board of Trade of Proceedings under the Conciliation Act, 1896.

The first table shows the source of applications, and the most interesting point in connection with it is, that nearly 50 per cent. of the applications were made

TABLE SHOWING THE ACTION TAKEN UNDER THE CONCILIATION ACT, 1896, AUGUST, 1896, TO JUNE, 1903.*

	Aug. '96 to June '97.	July '97 to June '99.	July '99 to June '01.	July '01 to June '03.	Total.
Disputes settled under the Act:					
By the appointment of a conciliator or chairman	2	4	3	2	11
By negotiations of Board of Trade officials	12	8	3	–	23
By the appointment of an arbitrator	5	10	23	27	65
Total	19	22	29	29	99
Disputes settled between the parties during negotiations	4	3	3	4	14
No settlement, including cases of application refused by the Board of Trade	12	7	14	7	40
Total	35	32	46	41 †	154 †

* Compiled from the Reports by the Board of Trade of Proceedings under the Conciliation Act, 1896.

† Including one case pending at the date of the Report.

TABLE SHOWING THE TRADES AFFECTED BY THE CONCILIATION ACT, 1896, AUGUST, 1896, TO JUNE, 1903.*

Trade.	Number of Cases.				
	Aug.'96 to June '97.	July '97 to June '99.	July '99 to June '01.	July '01 to June '03.	Total.
Building - -	7	9	24	16	56
Mining and Quarrying - -	4	9	3	5	21
Metal, engineering and shipbuilding - -	12	6	7	6	31
Transport - -	4	3	6	1	14
Clothing - -	4	–	2	–	6
Textile - -	3	2	–	3	8
Printing, bookbinding, paper making - -	1	1	1	4	7
Other † - -	–	2	3	6	11
Total -	35	32	46	41	154

by both sides. We shall notice lower down that only some 2½ per cent. of the applications under the French Law of 1892 were joint ones. The explanation of this contrast lies in the fact that in England we have a well-developed system of voluntary arbitration and conciliation, which the Conciliation Act, 1896, simply supplements. Both parties may

* Compiled from the Reports by the Board of Trade of Proceedings under the Conciliation Act, 1896.

† These consist of pottery (3); woodwork (2); horse collar making (2); bakers (1); fish dock labourers (1); coopers (1); and cabinet makers (1).

be willing to arbitrate, but may be unable to agree about the umpire. In this case nothing is more likely than that they should avail themselves of the Board of Trade. It will be noticed in the next table, showing the action taken, that in almost two-thirds of the cases settled under the Act, an arbitrator was appointed. When dealing with French legislation we shall learn that exactly the contrary happened in France, where roughly 80 per cent. of the cases were settled by conciliation and only 20 per cent. by arbitration. In France we have already noticed that voluntary conciliation and arbitration are little developed. Hence applications are often made for arbitration and conciliation under the French Law of 1892, which in England would have been made to voluntary boards. Just as in the latter case settlements are almost always effected by conciliation, so they are under the French Law. Applications are usually made to the Board of Trade, only after attempts at conciliation have failed; hence it is not surprising to find that a majority of the cases are settled by arbitration. In France a first attempt at a settlement can usually only be made under the law of 1892, and consequently it is natural to find that conciliatory methods predominate. Figures for some of the American State Boards of Mediation and Arbitration* show us that a very similar state of affairs exists in the United States as in France, though in a less marked degree.

* See p. 142.

This difference between Great Britain on the one hand, and France and the United States on the other, is also illustrated by the number of interventions made by the Board of Trade, Justices of the Peace, and the State Boards respectively, without any application from either party. It will be seen from the table showing the sources of application, that the Board of Trade intervened on its own initiative on nine occasions only during seven years, and that none of these occasions fell in the two years ending June, 1903. On the other hand, in France the justices of the peace intervened on nearly 600 occasions during the eleven years ending December, 1903, or, in other words, on 40 per cent. of the occasions in which the Act of 1892 was put into operation, the initiative came from the justice of the peace, as compared with 6 per cent. of all occasions upon which the Conciliation Act of 1896 was set in motion by the Board of Trade. Similarly, in the case of the Illinois State Board, action was taken by the initiative of the Board in some 50 per cent. of the total cases reported, and in Massachusetts this figure was even exceeded. Whilst these figures undoubtedly speak highly for the excellent organisation of the English voluntary system of conciliation and arbitration, one must remember, when comparing the figures of the different countries, that the French and American authorities have always been zealous in offering their services in cases of dispute, and that the policy of the Board of Trade has largely been one of

non-intervention, for which they have not infrequently been blamed.*

If we turn our attention to the last table, showing the trades affected by the Act, we shall notice that the building trade has been more affected by it than any other two trades put together. Two explanations of this fact may be offered; in the first place, the building trade is particularly liable to disputes, partly owing to the want of clear lines of demarcation among the different branches of the trade, and partly owing to the great fluctuations in prosperity to which the trade as a whole is liable; in the second place, though this trade possesses numerous trade boards, the great majority of them are entirely inoperative, and the activity of the rest is insufficient to meet all the requirements.

Before turning our attention to French legislation, there remains for us to consider, whether, at any time since the passing of the Conciliation Act of 1896, there has been any demand for further legislation in Great Britain. There undoubtedly has been, and we get it clearly expressed in the following resolution, carried at the thirty-sixth Trades Union Congress, held at Leicester in September, 1903:—

"That in the opinion of this Congress, a court shall be formed, which shall have power to call compulsorily

* Mr. G. Howell, in his recent book "Labour Legislation, etc.," is not of this opinion, however, for he says of the Act: "Its success has been mainly due to the cautious and careful way it has been administered by the Board of Trade." p. 445.

for evidence in any dispute, where the parties have not agreed to settlement within one month of the duration of a strike or lockout. Either side of the disputants, or a public governing authority, shall have power to call for an investigation and shall issue a public report, the latter only to be issued on the ground of disagreement between the parties concerned. The court to be constituted by equal numbers of employers and Trade Union representatives, and to be presided over by a chairman mutually agreed upon, or, failing agreement, the Board of Trade to appoint one under powers of the present Act. The court shall be movable, and shall have power to call for special commissions of investigation and report. This commission to be subsidiary to the central court of conciliation, but shall, if the parties affected agree to report and accept decision of the same, settle the dispute. The subsidiary courts shall be representative of the industries affected. That the Parliamentary Committee draft a bill for the purposes aforesaid."

So far nothing appears to have come of this resolution and at present there is no prospect of the Conciliation Act, 1896, being amended, and it is doubtful if an amendment, empowering boards of conciliation to call compulsorily for evidence, will be passed in the near future, seeing that this is directly opposed to the recommendations of the Royal Commission on Labour, though it is true, as we shall see later, that a somewhat similar proposal has worked successfully in Denmark on a small scale.*

* The principal works dealing with English Legislation have already been mentioned above; namely: the Reports of the Royal Commission on Labour; De la Conciliation et de l'Arbitrage, etc.; Reports of the American Industrial Commission; the biennial Reports on the Conciliation (Trade Disputes) Act, 1896; Jevons, State in Relation to Labour;

French Legislation.—In France a very clear distinction is drawn between disputes arising out of the interpretation of existing contracts and those concerning the terms of future contracts; and there are two distinct State methods of settling the two different classes of disputes. The former have been settled for almost 100 years by the compulsory system of the councils of prud'hommes; in the case of the latter, for some twelve years a voluntary system has existed, by which the Government places the services of its officials at the disposal of disputants in case of a threatened or existing strike, with the object of assisting in the settlement of the dispute by conciliation or arbitration.

Councils of Prud'hommes. The first council was established by the law of March 18th, 1806, in Lyons. In the 18th century many of the old corporations, which had been dissolved in 1791, had had what

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and Howell, Labour Legislation, Labour Movements and Labour Leaders. It is important to add that it is often necessary, and also sufficient, to refer to the original statutes. In the majority of English works on Arbitration and Conciliation, the English Legislation on the subject is dealt with, and it is only necessary to refer the reader to the bibliography at the end of this essay. It might be mentioned that the Acts of 1824, 1867 and 1872 are discussed in a short and concise manner by J. D. Weeks in his Report on the Practical Working of Arbitration and Conciliation in the Settlement of the Differences between Employers and Employees in England. The best and most accessible source for obtaining information about the agitation for further English Legislation since 1893 is to be found in the Annual Reports of the London Labour Conciliation and Arbitration Board,

was known as a common tribunal (*tribunal commun*) for the settlement of disputes, but after 1791 these had to be referred to justices of the peace, and this method proved both costly and unsatisfactory. In 1805, when Napoleon was passing through Lyons, the silk merchants petitioned him to create some institution similar to their old "common tribunal," and this was done by the Act of the following year. The council consisted of five merchant manufacturers and four heads of workshops (*chefs d'atelier*), themselves employers of labour, which practically amounted to nine employers forming the board. A committee of two was to be present daily from 11 to 1 at an office of conciliation, to settle small differences by means of conciliation whenever possible, and the council was to meet at least once a week to decide definitely those matters where conciliation had failed, and not more than 60 francs were involved. Between 1806 and 1809 councils were established in Rouen, Nîmes, Mülhausen and several other towns.*

By the decree of June 11th, 1809, the procedure to be followed in the future, in order to create councils, was definitely fixed. They were to be established at the request of a Chamber of Commerce or of a Consultative Chamber of Arts and Manufactures. The request was to be made to the prefect, who was to investigate it and forward it to the Minister of the Interior, who, on being satisfied that the industry of the town was important enough, would grant it.

* These were Avignon, Thiers, Sedan, Carcassonne, Narbonne, Saint-Quentin, Limoux, Rheims and Tarare.

This is the method followed more or less to the present day. By this same decree workmen were allowed to sit on the councils, but for many years afterwards the number of manufacturers on the council exceeded that of the heads of workshops and workmen.

It is not necessary to deal in detail with all the small reforms which have been introduced into the councils by legislation* during the course of the 19th century, but we may at once consider the present constitution of these councils. They are created at the request of a local Chamber of Commerce by a State decree, which specifies the number of experts (*prud'hommes*) who are to form the council—the smallest number being six, including the presidents, who are elected by the council from amongst its members—over what district its jurisdiction is to extend, and what industries are to be subject to the council. Only those trades, in which materials undergo transformation, can elect these councils. The suffrage is given to all employers, heads of workshops, and workmen over twenty-five years of age who have resided three years in the district, and who have engaged in industry for at least five years. No one can sit upon the council who is not thirty years of age ; and an equal number of members are elected by each class. The president and vice-president must each represent different

* The laws of 7th August, 1850, 1st June, 1853, 4th June, 1864, 7th February, 1880, 23rd February, 1881, 24th November, 1883, and 10th December, 1884, all deal with the Councils of Prud'hommes.

classes. The term of service of members is six years, half the members retiring every three years. The members generally serve without pay, though the communes may fix rates of remuneration if they choose to do so. The council is divided into two, namely: (1) a committee of conciliation (*bureau particulier*), consisting of one employer and one workman, who endeavour to bring the disputants to a friendly understanding and, (2) a committee of judgment, consisting of a president (an employer) and a vice-president (a workman), who preside in alternate months, and two other masters and two other workmen. All disputes, which have not been settled by the committee of conciliation, come before the committee of judgment, which can pass final judgment in all cases arising out of the interpretation of a contract, not involving more than 200 francs. If the amount exceeds that sum, an appeal can be made to the tribunal of commerce.

With regard to the work done by the councils, it is worth noticing, that the great majority of the disputes dealt with, are directly concerned with wages, *e.g.*, questions concerning the exact amount agreed upon, the time and mode of payment, the amounts of fines, hours of labour, absences from work, defective workmanship, apprenticeship, valuation of piece-work and delay in completing task-work. The most striking feature about the councils is the preponderance of conciliation. The average annual number of cases dealt with during the "eighties" slightly exceeded 40,000, and of

these two-thirds were settled by conciliation or withdrawn. At the present time more than 50,000 cases come before the committees of conciliation, some 60 per cent. of the cases are settled by the committees or withdrawn, and only in about 15 per cent. is final judgment passed.

On several occasions the Chamber of Deputies have passed bills to alter the existing law with regard to Councils of Prud'hommes, but in each instance the Senate has rejected them. The chief changes proposed are : that experts should be elected for commerce, agriculture and mining, that the minimum age of electors should be reduced to twenty-one and that of members to twenty-five, that foremen and chiefs of workshops should be counted as employers, that employers and workmen should remain electors and eligible for membership on the councils for ten years after retirement, that the franchise should be extended to women over twenty-one, and that judgment should be final when the amount involved does not exceed 2,000 francs. The only suggestions which the Senate countenances are the extension of the jurisdiction of the councils to mining, and the raising of the limit, under which judgment is to be final, from 200 to 300 francs. It is possible that some alteration of the existing law may be made in the future, but so long as the proposals of the Chamber of Deputies remain as radical as they are at present, there seems little chance of a compromise being effected.

The Law of December 27th, 1892.—There was nothing in the general law of France to prevent

the parties to a dispute from referring the matter to another party for settlement. On December 27th, 1892, however, a law was passed for the purpose of encouraging such references and making provisions for the means by which it could be done. It provides that "whenever disputes of a collective character arise between employers and employees regarding the condition of employment, they may submit the question at issue to a board of conciliation, or, in default of an agreement being arrived at by this board, to a council of arbitration." In case a dispute arises, the employers and employees, jointly or separately, may notify a justice of the peace of this fact and within twenty-four hours he must inform the opposing parties or their representatives. If the parties accept, they must designate the names of the delegates, not exceeding five in number, whom they choose, to assist or represent them. The justice of the peace then invites the delegates to organise a committee of conciliation, and presides over the discussions. If an agreement is arrived at, it is set down in writing and signed by the delegates and the justice of the peace. If no agreement is arrived at, the justice of the peace invites each party to appoint one or more arbitrators, who in their turn, if they cannot agree, may choose a new one as umpire. If an agreement is come to at any time by arbitration, it must be set down in writing, and be signed by the arbitrators and sent to the justice of the peace. When a strike occurs and neither party to a dispute takes the initiative, the justice of the peace may

invite the employers and workmen to submit their dispute to arbitration.

To understand fully the law of December 27th, 1892, it is necessary to consider along with it the circular of the Minister for Commerce, Industries and Colonies, addressed to the Prefects on the application of the new law, and the circular to the Attorneys-General (*procureurs généraux*) from the Minister of Justice. The former points out that conflicts between capital and labour result, for the greater part, from industrial expansion and development; that the best means of avoiding irritation is to bring about more frequent meetings between the masters and men; that furthermore this view is justified by experience. The object of this law is to put masters and workmen in the same factory or the same industry in permanent relations and to permit them to look into and quietly decide their trade disputes, as soon as they appear, and finally unite the representatives of capital and labour in perfect agreement. The Prefects, the circular continues, are best qualified to advise interested parties as to the new law, and hence much of its future success depends upon them. After a time the Government feels convinced that the workmen will themselves recognise that the new law is adapted to save them from long stoppages and all the miseries which must inevitably ensue. On their side, the masters, conscious of their own interests, will certainly manifest a disposition to accept the new procedure. The circular closes by requesting the Prefects, whenever an occasion arises, to influence the masters in that direction.

TABLE SHOWING THE APPLICATION OF THE ARBITRATION LAW OF DEC. 27TH, 1892, IN FRANCE, 1893–1903.*

	1893	1894	1895	1896	1897	1898	1899	1900	1901	1902	1903
No. of strikes -	634	391	405	476	356	368	740	903	523	512	571
No. of cases in which the Act was put into operation before the commencement of a strike - - -	7	8	5	6	3	2	2	9	6	6	9
No. of cases in which the Act was put into operation :—											
By employers -	5	4	2	4	4	3	1	6	5	5	3
By workpeople-	56	51	46	57	46	57	112	141	87	60	59
By both sides -	2	2	3	4	1	2	4	8	3	2	2
By justices of the peace -	46	44	34	39	37	32	80	79	47	40	58
Total - -	109	101	85	104	88	94	197	234	142	107	152
No. of strikes settled before the formation of conciliation committees - - -	13	8	4	7	9	4	9	14	9	6	4
No. of refusals to settle by conciliation :—											
By employers -	34	24	29	41	20	32	65	58	51	35	46
By workpeople -	6	4	—	3	2	1	1	3	4	2	1
By both parties	2	1	2	—	3	5	13	5	6	5	8
Total - -	42	29	31	44	25	38	79	66	61	42	55
No. of conciliation committees formed	55	65	53	53	54	52	106	140	72	59	93
No. of committees which settled disputes :											
By conciliation-	28	31	24	21	25	18	36	60	38	32	42
By arbitration -	5	2	3	1	5	2	6	18	8	2	2
Total - -	33	33	27	22	30	20	42	78	46	34	44

* Compiled from Statistique des Grèves et des Recours à la Conciliation et à l'Arbitrage. Office du Travail. Annually.

The Minister of Justice in his circular says, that the choice of an authorised mediator and the organisation of a simple procedure have been the prevailing idea of the legislative body, which held that the former should be a person invested with the consideration and weight attaching to a servant of the public, and at the same time equally removed from political struggles and industrial quarrels. After describing the relation of a justice of the peace to conciliation and arbitration, the circular concludes by drawing attention to the fact that the only sanction the law provides to support the decisions of arbitrators is an appeal to public opinion, which will show itself justly severe on a strike without motive or on unjustifiable resistance to these councils of reconciliation and pacification.*

On the preceding page a table will be found, showing the application of the law of 1892. The small number of joint applications, the large proportion of interventions by the justices of the peace, and the large number of settlements by conciliation as compared with those by arbitration, have already been commented upon. It only remains to be pointed out that the

* Copies of the law of December 27th, 1892, of the circular of the Minister of Commerce, Industries and Colonies to the Prefects about the application of the Arbitration Law, dated January 23rd, 1893, and of the circular of the Minister of Justice to the Attorneys-General about the application of the Arbitration Law, dated February 18th, 1893, are printed at the end of the report De la Conciliation et de l'Arbitrage, etc. English translations will be found in the Reports of the Royal Commission on Labour.

number of cases, in which the Act was put into operation before the commencement of a strike, are very few, which helps to explain the large number of refusals to settle by conciliation.*

German Legislation.—Special courts for the settlement of industrial disputes have, in some form or other, been provided by German law since the beginning of the 19th century, though till recent times few people have seemed eager to avail themselves of the provision. At the time when the left bank of the Rhine was under the Napoleonic Code, councils of prud'hommes were established, and these remained intact when the provinces reverted to Prussia. By degrees others were established in different parts of the country, and by an Order of Council, of August 7th, 1846, these were given the name of Royal Councils.

* The following works were consulted in writing this section; De la conciliation et de l'arbitrage dans les conflits collectifs entre patrons et ouvriers en France et à l'étranger; Reports of the Royal Commission on Labour; Reports of the American Industrial Commission; Conciliation and Arbitration in France, *Board of Trade Journal*, February, 1893; Foreign Office Reports, Miscellaneous Series, No. 159, French Councils of Prud'hommes; the *Labour Gazette*; and Handwörterbuch der Staatswissenschaften, art. Gewerbegerichte (Stieda).

Statistical information concerning the Councils of Prud'hommes will be found in the Bulletins de l'Office du Travail, published annually since 1894, and figures showing the application of the Arbitration Law of 1892 will be found in Statistique des Grèves et des recours à la conciliation et à l'arbitrage, Office du Travail, annually since 1893.

There are numerous French works dealing with the subject discussed in this section, reference to several of which will be found in the Bibliography at the end of the essay.

On February 2nd, 1849, an Act was passed to establish Industrial Courts (*Gewerbegerichte*), but only eleven were established under it. Similarly a Saxe-Gotha law of 1849 and a Saxon law of 1861 remained nearly inoperative.

By the Industrial Code of 1869 it was enacted:—

"That disputes between independent industrial employers and their workmen, respecting the commencement, continuation, or termination of the labour contract, their mutual obligations under it, and the granting or contents of certificates, must be submitted to especially appointed authorities, in so far as such exist. Where such authorities do not exist, the matter must come before the regular communal authorities, against whose decision an appeal can be made to law. By local statutory regulations, courts of arbitration may be instituted by the communal authorities for the settlement of such disputes, the members of these courts being chosen from among the employers and the employed in equal numbers."

At the end of 1889, immediately before this law was repealed, only 79 courts had been established, and many of these had never been definitely organised, owing to lack of business.

On July 29th, 1890, a general arbitration law was passed. The preamble stated that:—

"In many recent strikes it has been felt, that, although both sides were ready to treat, negotiations could not be initiated without long delay, because no regular and authoritative body existed which could undertake the conduct of such negotiations. The present law attempts to establish a body of this kind, which may be able to facilitate the amicable settlement of the differences between employers and employed on points concerning

the labour contract, and so to obviate the heavy losses entailed to both parties by strikes, or to bring the latter to a speedy conclusion, where they have actually broken out. It is hoped that the constitution of the Industrial Courts, which ensures special knowledge and unbiased judgment, may command the confidence of both employers and employed."

The authorities of a commune, or number of communes combined, may establish an Industrial Court (*Gewerbegericht*), after employers and employed have expressed a desire for one. If the local authorities refuse to establish one in such a case, the central authorities may do so. Each court must consist of at least a president and a deputy president, elected by the local authorities, and four assessors. The court, when acting, is to be composed of not fewer than three members, including the president, and an equal number of employer and workmen assessors. The electors must be twenty-five years of age and have lived in the district for at least one year. Members of the court must be thirty years of age or more. The jurisdiction of courts extends to the following questions, without regard to the value of the matter in dispute, provided, however, that the judgment is not final, and that an appeal can be made to a district court, when the amount involved exceeds the sum of 100 marks: (*a*) the making, continuance, or breaking of the labour contract and the surrender of, or making of, entries in labour pass-books and certificates; (*b*) claims on account of services rendered or for ndemnities arising out of such relations and the payment of fines; (*c*) the calculation and charging of dues

required of employers for the sick insurance funds ; and (*d*) claims of employees against one another, when work is undertaken jointly under the same employer. In all cases an attempt must be made to conciliate the parties before the court sits in judgment.

In 1897 a further law provided that the guilds (*Innungen*) might form courts of conciliation to settle disputes between members of the guilds and their workmen and assistants (*Gehilfe*), instead of applying to other courts. Such a court must consist of a president and two or more paid assessors ; the president, not necessarily a member of the guild, is to be appointed by the Board of Control (*Aufsichtsbehörde*) ; the assessors are to be chosen, one half by the members and one half by the workpeople. Judgments are to be considered final if no appeal is made against them to an ordinary court within one month. At the end of 1900 there were 394 Guild Industrial Courts in Germany.

The figures below clearly show the large increase in the use which is being made of the industrial courts in Germany. This increased popularity is all the more striking when one remembers the antipathy which had been shown towards similar attempts made earlier in the century. Even at the present day some communes and authorities have remained opposed to the courts. With the workmen, on the other hand, they are apparently becoming more and more popular.

Arbitration courts, as constituted by the above Acts, are almost identical with the French councils of

TABLE SHOWING THE WORK OF THE "GEWERBE-GERICHTE" IN 1893, 1896, and 1900.*

	1893.	1896.	1900.
Number of "Gewerbegerichte" -	154	284	316
Number of disputes †:			
Between employers and employees - - - -	37,386	68,638	83,929
Between employees of the same works - - -	221	160	335
Number of cases settled:			
By agreement - - -	14,865	30,798	36,265
By recognition (*Anerkenntnis*)	727	775	1,042
By judgment by default - -	3,766	5,207	6,318
By other form of final judgment	8,579	14,291	15,379
By renunciation (*Verzicht*) -	374	428	22,927
By withdrawal of complaint -	6,346	16,057	
Total † - - - -	34,657	67,356	81,931

prud'hommes. By the Act of 1890, some provision was made for conciliation in larger industrial disputes, and these provisions were repeated and slightly modified by the law of September 29th, 1901. These courts may also act as boards of conciliation to adjust disputes affecting the relations between employers and their employees, in order to bring about the continuation or re-commencement of work. They must be formally requested to serve in such capacity by both employers and employees; if it comes from one side only, the president must try to persuade the other party to make the request. Even where no application is made, the president, in case of disputes which

* These figures are compiled from official sources and are quoted in the Handwörterbuch der Staatswissenschaften, art. Gewerbegerichte, and Brockhaus, Konversations Lexikon, art. Gewerbegerichte.

† The difference between the number of disputes and the disputes settled is accounted for by the rest of the disputes being carried over to the next year.

may lead to strikes, may try to induce the parties to make an application. The board of conciliation consists of a president and an equal number of assessors from both sides, nominated by the parties themselves. If an agreement is arrived at by conciliation, the terms must be reduced to writing and be signed by all the members of the board and by the delegates, three in number, of each party. If an agreement cannot be arrived at by conciliation, the board must give a decision, obtained by a simple majority vote. If the representatives of the two parties are unanimously opposed to each other when the vote is taken, the president may withhold his vote and declare that a decision has not been come to; whatever the decision is, and whether the parties have agreed to abide by it or not, it must be publicly notified by the board, although the board has no means of enforcing its decision.

The following figures show the use which has been made of the arbitration courts as conciliators*:—

Year.	Total No. of Cases.	No. of Cases Settled.	Year.	Total No. of Cases.	No. of Cases Settled.
1893	5	3	1899	55	
1894	16	7	1900	45	
1895	19	13	1901	32	
1896	44	18	1902	43	
1897	27	12	1903	55	
1898	30	9	–	–	

*The figures are compiled from official sources and are quoted in the Handwörterbuch der Staatswissenschaften and in the *Labour Gazette*. Unfortunately the figures are not complete.

It is impossible to draw any definite deduction from the figures, but they seem to show that the court is used as a board of conciliation on some fifty occasions annually, and that although by no means successful in effecting a settlement in every case, it has, in some degree, helped to make up for the marked deficiency in voluntary systems of arbitration and conciliation* which at present appears to exist in Germany.†

Belgian Legislation.—In Belgium, as in France, we have to distinguish two distinct State methods of settling industrial disputes. In the first place, there are the councils of prud'hommes, originally created by the French law of 1806. Under this law,

* See the Reports of the Royal Commission on Labour. The need of a good voluntary system at the present day is clearly shown by the very large number of strikes occurring in Germany (see p. 10). In 1903 there were four-and-a-half times as many strikes in Germany as in England.

† The following works were consulted in writing this section :—The Reports of the Royal Commission on Labour ; the Reports of the American Industrial Commission ; De la conciliation et de l'arbitrage, etc. ; Handwörterbuch der Staatswissenschaften, arts. Gewerbegerichte and Einigungsämter (Stieda) ; the *Labour Gazette* ; J. Konrad, Grundriss zum Studium der politischen Ökonomie, zweiter Teil, Jena, 1902. Information and statistics dealing with the Gewerbegerichte will be found in the *Reichs-Arbeitsblatt*. Some figures are also published in the German Statistical Yearbook. More details will be found in " Das Gewerbegericht. Monatschrift des Verbandes deutscher Gewerbegerichte, herausgegeben von Dr. J. Jastrow und Dr. K. Flesch." For the work of the courts as boards of conciliation, see Streiks und Aussperrungen (Statistik des Deutschen Reichs), published annually since 1899. Numerous German works dealing with German legislation are mentioned in the Bibliography.

the first council was established at Bruges in 1809, and the second at Ghent in 1810. The law was modified in 1842 and again in 1859, and finally investigated by the Belgian Labour Commission of 1886. As a result the councils were re-organised in 1889, and somewhat modified by law in 1896, and by Royal Decree in 1897. Though differences exist in the details of the organisation, the general principles of the Belgian law are so similar to those of the French law, which have already been described, as to need no further description.

The second of the two institutions for the settlement of industrial disputes referred to above, are the Councils of Industry and Labour. These councils are to be found in Belgium only, and were established on the recommendation of the Labour Commission in 1887, and modified in 1889 after the law relating to councils of prud'hommes had been passed. The councils were instituted to be, firstly, administrative bodies charged with the collection of statistical data bearing on the state of industry, price of food, rate of wages, average rents both at home and abroad, and on all matters connected with trade and with labour; and, secondly, consultative institutions, bringing masters and workmen together, in the absence of any industrial struggle, and before any contest should break out, to deliberate and pronounce an opinion on all matters affecting their common interests.

The constitution of these councils is somewhat similar to that of the councils of prud'hommes. They are established by Royal Decree and are

divided into sections corresponding in number to that of the local industries which are of sufficient importance for representation. They consist of equal numbers of employers and employed, who must not be fewer than six or more than twelve in number. The law determines in a general way only the manner in which members shall be elected; the details were fixed by the Royal Decree of August 15th, 1889, which was replaced by another Royal Decree on March 10th, 1893, and modified in details by further decrees of March 26th and April 11th, 1897. Electors must be at least twenty-five years old and have resided not less than four years in the district; members of the council, who must not be less than thirty years of age, are elected for terms of three years.

The duties of the councils, with regard to the adjustment of labour difficulties are shortly as follows: "When the circumstances seem to require it, the governor of the province, the mayor of the commune, or the president, shall, upon the request of the employers or employees, convoke the section relating to the industry in which a conflict seems imminent. This section shall use its efforts to terminate the difficulty. If an agreement cannot be reached, a summary report of the proceedings must be published. The law does not determine the method to be pursued in settling disputes and the councils have no power to enforce their decisions."

The importance of these councils as consultative chambers regarding industrial and labour matters

has steadily increased, but their function as boards of conciliation and arbitration has been used to a very limited extent only. At the beginning of 1902 there were seventy-five councils of industry and labour in Belgium. During the year 1901 these councils intervened in six disputes, but only in one case was the intervention successful.*

Before leaving the subject of Belgian legislation, the opportunity may be taken to once more emphasise the difference which exists between two classes of disputes. The councils of prud'hommes consider questions arising out of a violation of contracts, and their deliberations and decisions are based on these contracts. The councils of industry and labour deal with cases in which no contract is pre-supposed; their object is to induce the formation of new contracts on the best possible terms; the opinions expressed may be accepted or not by the parties concerned, whilst in the case of the former, provided the amount involved does not exceed 200 francs, the judgment is final and can be enforced.

Italian Legislation.—The establishment of a system of conciliation and arbitration in Italy was recommended as long ago as 1878 by the Commission on

* See the *Labour Gazette*, August, 1902. For more detailed information concerning State arbitration and conciliation in Belgium, see the volume of the Reports of the Royal Commission on Labour dealing with Belgium; the French Report, De la conciliation et de l'arbitrage, etc.; and the F. O. Miscellaneous Report, No. 198, Report on the Belgium Councils of Prud'hommes and Councils of Industry and Labour.

Strikes; but the Collegi di Probi Viri, which are very similar to the French Conseils des Prud'hommes, were first established by the law of 15th June, 1893. The boards, which practically deal with individual disputes only, have proved useful, but have not become popular. As a result of the rapid and successful Trade Union movement, the Italian Government in 1903 introduced a Bill offering greater facilities for industrial conciliation and arbitration. In the case of all strikes, other than those of a non-economic character, the Bill proposed to make conciliation compulsory and provided for permissive arbitration. Either party was to be able to initiate proceedings for conciliation, but the Bill did not provide for the intervention of any outside body or person. For arbitration the consent of both parties was to be necessary. The awards were to be binding on both parties for a term not exceeding three years. This Bill does not appear to have been carried, and in May, 1904, the Italian Government published a report of an "inquiry into the reform of the law of June 15th, 1893." *

* I Probiviri Industriali. Inchiesta per la riforma della legge 15 giugno 1893. Roma, 1904. In 1903 the Italian Labour Department published a list of the boards existing in Italy on August 15th, 1903: Elenco dei Collegi di Probi Viri.

The following may also be consulted on the subject of conciliation and arbitration in Italy:—The Reports of the Royal Commission on Labour; Boulton King, Recent social legislation in Italy, *Economic Journal*, September 1903; W. Sombart, Das italienische Gesetz betr. der Einsetzung von Probi Viri, *Archiv für soziale Gesetzgebung*, VI. pp. 549–565; V. Mataja, Les projets de loi francais et italien

*Danish Legislation.**—By the law of April 3rd, 1900, it was provided, that when a central organisation of employers and a central organisation of workmen shall have concluded an agreement as to the fixing of the conditions of work in an industry, or a skilled trade, or in any establishment in which an industry or skilled trade is carried on, and it shall have been provided in this agreement that all questions relating to the due observance of the said agreement, which may have arisen between such central organisations, shall be settled by arbitration, it may be ordered by a Royal Decree, that such courts of arbitration shall have power to summon witnesses on subpœna, provided the seat of the court is at Copenhagen and the president is qualified to fill the post of judge in an ordinary court of justice.

As this law applies to disputes between central organisations of employers and employees, its application is very restricted. So far only one court of arbitration, constituted by the Employers' Association on the one hand and the Trade Union Federation on the other, has acquired the right of compulsory examination of witnesses. As, however, almost all local federations throughout the country have joined

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concernant l'arbitrage et les conseils des prud'hommes, *Revue d'économie politique*, 1892; E. Cavalieri, La questione dei probi viri in agricoltura; The settlement of labour disputes in Italy, *Board of Trade Journal*, June, 1893; Arbitration and Conciliation in Italy, *Manchester Evening News*, November 27th, 1903; V. Racca, L'arbitrage et la conciliation en Italie, *Musée Social*, 1903.

* See the *Labour Gazette*, February, 1904.

the Employers' Association or the Trade Union Federation at Copenhagen, a further extension of this privilege seems unnecessary. In January, 1902, the number of members of trade unions affiliated to the Trade Union Federation was 72,127, out of a total membership of all the Danish trade unions of 96,479.

So far seven awards have been made : four in 1900, and one in 1901, one in 1902, and one in 1903. In five cases the employers were the plaintiffs, and in one case the trade unions, and in the remaining case both parties complained. This latter case was dismissed; the employers won four and the trade unions two cases. The disputes all arose about questions having no reference to wages ; in four cases strikes had been illegally declared, in one case the men refused to work with non-unionists, one case arose out of an illegal lockout, and in the remainder both a strike and a lockout had occurred.

This Danish experiment is particularly interesting in the light of the recent policy of the English trade unions. There can be no doubt that the Danish court is very similar to the one which trade unionists would like to see established in England ; but it must be remembered, that though the experiment has been successful so far, the whole thing is on a much smaller scale than it would be in England, where trade unionists are about twenty times as numerous as in Denmark, and also that up to the present no question having any reference to wages has been dealt with by the court. It is noteworthy, that in

five cases out of seven the court has been put in motion by the employers, and one wonders whether trade unionists would support the suggested amendment of the Conciliation Act, 1896, if they thought that in the majority of cases the newly established court would be used by employers against themselves.

American Legislation.—In the United States we find, as we should naturally expect to do, that arbitration and conciliation are in the hands of the various State Governments; but there is an exception in the case of railroad employees, for whom the Federal Government has legislated. In 1888 an Act was passed to assist the establishment of arbitration and mediation boards as regards strikes and lockouts upon interstate transportation lines. In 1898 a new Act was passed* permitting either or both parties to any such dispute to request the intervention of the chairman of the Interstate Commerce Commission and the U.S. Commissioner of Labour. In case the parties agreed to arbitrate, these two officials would appoint one arbitrator and each of the parties concerned another. The decision of these arbitrators is binding and may be enforced in the United States courts by equity process. Employees shall not quit the service of the employer before three months after the award without giving thirty days' notice of their intention to do so, and the employer is placed under a similar restriction as regards the dismissal of employees. So far no case of arbitration has arisen under this Act.

* Public Laws of 1898, ch. 370.

We may now turn our attention to the laws prevailing in the different States within the United States of America*; we shall find that there are two distinct classes of laws, the one providing for State boards of arbitration and conciliation and the other providing for local boards, and it is the former which we will first examine more closely.

In 1886 State boards of mediation and arbitration were established in New York and in Massachusetts, each differing in certain important points, to which attention will be drawn lower down. The Act of New York has formed the basis for similar Acts in New Jersey, Michigan, and Connecticut; whilst the Massachusetts law has been the model for arbitration laws in California, Colorada, Idaho, Illinois, Louisiana, Montana, Minnesota, Ohio, Utah, and Wisconsin; the law of Indiana differs from both of these types. The composition of the boards forms the best criterion for distinguishing the three types. The Massachusetts Board consists of three members appointed by the Governor, one an employer, one a workman, and one appointed on the recommendation of the other two. The New York Board also consists of three members, one being chosen from the political party casting the highest number of votes, one from the party casting the next highest number, and a third from an incorporated labour organisation of the State. In 1901, however, the New York Board was

* The texts of all these laws, as also of the U.S. law of 1898, will be found in the 15th Annual Report of the New York State Board of Mediation and Arbitration, Albany, 1902.

transferred to the Commissioner of Labour and his two deputies. In Indiana the Governor appoints one member who has been ten years of his life an employer, and another member who has been ten years of his life an employee, and it is stipulated that these two shall not be members of the same political party. When acting as a Board of Arbitration these two associate with them a judge of the Circuit Court of the county in which the controversy occurs. The State boards, however constituted, have little authority of an absolute character. No board can compel the parties to a dispute to submit to its decision, and even where the parties voluntarily agree to do so, there is generally no means of forcing them to abide by the decision rendered.

There are three ways in which a State board may come to arbitrate in a dispute: on the initiative of one of the parties, and experience shows that this party is generally the employees; on the initiative of both parties, a somewhat rare occurrence; or on the initiative of the board itself, which is the commonest way. Almost without exception, the various laws provide that whenever it shall come to the knowledge of the board that a strike or lockout is threatened, or has occurred, it is the duty of the board to communicate with the employer and employees and to try by mediation to effect a settlement, or to persuade them to submit the matters in dispute to arbitration.

The decision of the boards is binding only where both parties join in the application; it is then

generally provided that it is binding, usually for six months, or until either party gives notice that it will not be bound after sixty days from the time of the notice. Only three States, namely Illinois, Indiana and Ohio, have established a definite procedure to compel obedience to the decisions of the State boards. One party may summon the other before the court, to show cause why the decision has not been complied with, and any party refusing to comply may be punished for contempt. Indiana law goes as far as allowing imprisonment "for wilful and contumacious disobedience."

We may now consider the working of the State boards. The Report of the American Industrial Commission * points out that the only boards which can be considered as exercising any important influence upon industrial relations, are those of Illinois, Indiana, Ohio, Wisconsin, New York and Massachusetts. The report further emphasises the four following points, which in general hold true of all the American State boards: firstly, the action of the board in regard to a labour dispute begins, in a large majority of instances, on its own initiative, without application by the parties; secondly, in nearly all the remaining cases, the application for the services of the State boards comes from one party only, and more frequently from the employees than the employers; thirdly, the intervention of the

* Vol. XVII.—Many of the volumes of these reports contain much valuable information about arbitration and conciliation, particularly in the United States.

TABLE SHOWING THE WORK OF AMERICAN STATE BOARDS OF CONCILIATION AND ARBITRATION.*

	Illinois 1895–9	Massachusetts 1894–1900	New York 1894–1900	Ohio 1893–99
Total cases reported	49	232	157	89
Cases arbitrated	11	54	—	—
Cases investigated with formal recommendation	3	—	—	6
Public hearings held	—	6	18	—
Cases of successful mediation	22	72	76	35
Cases of unsuccessful mediation	13	106	50	44
Joint applications	13	61	5	1
Applications by one party	12	48	—	13
Action by initiative of Board	24	128	—	—
Arbitration refused by employers	7	—	—	—
Arbitration refused by employees	2	—	—	—
Local arbitration	—	—	8	3

board usually takes place only after open rupture between employers and employees, *i.e.*, after a strike or lockout has actually taken place; and, lastly, the extremely small number of cases, in which the boards formally arbitrate disputes and render

* Compiled from the figures of the reports of the four respective State boards, quoted in Vol. XVII of the Reports of the American Industrial Commission.

binding decisions, is conspicuous. Above I quote a table to illustrate the four points emphasised. The figures of four of the most active State boards have been selected, and they may be taken as typical of all the States.

The second class of laws, referred to above, are those of such states as Iowa, Kansas, Pennsylvania, Texas, Maryland and Missouri, which authorise the establishment of local boards of arbitration, but which do not institute State boards. These laws are interesting as showing a desire to find peaceful means of settling labour disputes, but apparently they have never been called into use.* Consequently they have only a nominal interest for us. Various States with State boards also authorise the formation of local boards, which have occasionally been used, as the figures quoted above show.†

* See Reports of the American Industrial Commission, Vol. XVII., p. civ.

† Besides the Reports of the American Industrial Commission and the annual reports of the New York State Board of Mediation and Arbitration, the reader may consult the annual reports of the Massachusetts State Board—the most active State Board in America—and of the numerous other State boards, all of which, however, are very inaccessible to the English reader. None of these annual reports contain figures of the work done by the boards, and the only statistics available are those compiled from the reports by the American Industrial Commission. The Abstract of Foreign Labour Statistics contains figures showing the work of the Massachusetts State Board.

CHAPTER VII.

COMPULSORY ARBITRATION.

New Zealand.—* It is not my intention to enter here into all the events, which have led up to

* The first thing to be consulted in connection with New Zealand compulsory arbitration is the original material dealing with the subject. To begin with, there are the various Acts. These will be found in the different editions of the official compilation: "The Labour Laws of New Zealand," in the Reports of the American Industrial Commission, in the bulletins of the United States Department of Labour, Nos. 33 and 49, in the Fifteenth Annual Report of the New York State Board of Mediation and Arbitration, 1901, which is embodied in the Report of the New York State Department of Labour for the same year, and elsewhere, but I am not aware that they have ever been published in England. The awards, recommendations, etc., are published monthly in the Journal of the New Zealand Department of Labour and are afterwards collected and appear as the "Awards, Recommendations, Agreements, etc., under the Arbitration Act." A summary of the year's working of the law will be found in the Annual Reports of the New Zealand Department of Labour.

With regard to the working of the Acts there have been no lack of investigations. Two Colonial Royal Commissions have reported on compulsory arbitration in New Zealand. The Report of the New South Wales Commission of Inquiry into the Working of the New Zealand Compulsory Conciliation and Arbitration Law was published in 1901, after the Commissioner, Judge Alfred P. Backhouse, of the New South Wales Circuit Court, had visited New Zealand from March 21st till May 11th, 1901. The report, as far as it relates to New Zealand, is reproduced in full in the Fifteenth Annual

Report of the New York State Board of Mediation and Arbitration, 1901. In February, 1903, the Victorian Royal Commission, "appointed to investigate and report on the operation of the Factories and Shops Law of Victoria," issued its report. The Commission interpreted its powers liberally, and visited New Zealand and New South Wales to study the operation of their compulsory arbitration laws. A summary of the report by A. F. Weber, of the New York State Department of Labour, will be found in the *Quarterly Journal of Economics* for August, 1903. Both these reports are distinctly favourable to the Acts. The Victorian report appears to be very one-sided, and I shall have reason to refer to this in a footnote on p. 166.

One of the first private investigators of the working of the New Zealand law was the late Mr. Henry Demarest Lloyd, who visited New Zealand during 1899, and who published his report in a book entitled: "A Country without Strikes: A Visit to the Compulsory Arbitration Court of New Zealand" (New York, 1900). The book contains an introduction by the Hon. W. P. Reeves, and is loud in its praises of the law in every way. In 1899 two French gentlemen also visited New Zealand. M. Albert Métin published his report officially through the French Labour Department: "Législation Ouvrière et Sociale en Australie et Nouvelle-Zélande," and unofficially in a book entitled "Le Socialisme sans Doctrines." For an account of these two publications, I must refer the reader to the bibliography. The preliminary account of M. André Siegfried's investigations was published in the *Revue Politique et Parlementaire*, January, February, and March, 1900, under the title of: "Une Enquête . . . sur la Nouvelle-Zélande." Quite recently he has published a book on the subject: "La Démocratie en Nouvelle-Zélande" (Paris, 1904). In the spring of 1900 another French gentleman, M. Félicien Challaye, visited New Zealand, and his impressions will be found in the *Revue Politique et Parlementaire*, September, 1903: "L'Arbitrage Obligatoire en Nouvelle-Zélande." Early in 1903 the Adelaide (S.A.) newspaper the *Advertiser*, sent a Special Commissioner to New Zealand to report on the working of the Compulsory Arbitration Acts. His report appeared in the paper on May 21st, 1903, and has been reprinted in New Zealand under the title of: "Industrial Legislation in New Zealand: The Conciliation and Arbitration Act" (Wellington, 1903). The most recent investigation

is that of Mr. V. S. Clark, who visited the island in 1903, and whose report, "Labour Conditions in New Zealand," was published in the Bulletin of the United States Department of Labour, November, 1903.

Besides the above investigations into compulsory arbitration in New Zealand, three shorter ones may be mentioned. Mr. and Mrs. Webb visited New Zealand in 1898, and an account of their impressions will be found in the introduction to the second edition of their "Industrial Democracy." M. Louis Vigouroux spent several months of the same year in Australasia, and in 1902 his work appeared: "L'Évolution Sociale en Australasie." Mr. Tom Mann, the once well-known English labour leader, wrote from New Zealand in July, 1902, "Conditions of Labour in New Zealand," published in the *Nineteenth Century and After*, September, 1902.

Of the New Zealand gentlemen who have written on the subject, by far the most important is the Hon. W. P. Reeves, Agent-General for New Zealand, who first introduced Compulsory Arbitration into New Zealand. His chief work on the subject is his "State Experiments in Australia and New Zealand." Other writings of his which may be consulted are "The Long White Cloud"; Introduction to H. D. Lloyd's "Country without Strikes"; "Compulsory Arbitration at Work," *Contemporary Review*, November, 1897; "The Working of Compulsory Arbitration in Labour Disputes," *National Review*, XXX., p. 360; and letters to the *Times*, December 31st, 1898, January 6th, 9th and 19th, 1899. Mr. H. H. Lusk is no less favourable to compulsory arbitration, as he showed in his evidence before the American Industrial Commission and in his articles, "The Successful Prevention of Strikes in New Zealand," *World's Work*, February, 1902, and "Compulsory Arbitration: The Experience of New Zealand," in Peters's "Labour and Capital." Mr. O. T. J. Alpers. in Irvine and Alpers's "Progress of New Zealand in the Century," is more descriptive than critical. Another New Zealand writer is Mr. Barclay: "Four Years of the Conciliation and Arbitration Act" (Dunedin Fabian Society). Two strong opponents of the system are Mr. F. G. Ewington: "The Truth about the New Zealand Compulsory Industrial Conciliation and Arbitration Act," and letter to the *Auckland Star*, May 16th, 1901 [See Appendix III.]; and Mr. J. MacGregor "Compulsory Arbitration at Work," *National Review*, XXXIV., and "Compulsory Arbitration:

the Compulsory Arbitration Acts of to-day,* and it will suffice to say, that the first Act was passed in 1894, and that this was amended in 1895, 1896 and 1898, and consolidated in 1900. Since then two further Amendment Acts

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Is It a Success ?" Dunedin, 1901. [The writer was in the Upper House in New Zealand when the law was passed, and supported it, but he was so disappointed with its working that he wrote the pamphlet.]

Other works which may be consulted on the subject are the following:—The Reports of the American Industrial Commission; "State Arbitration and the Living Wage, with an Account of the New Zealand Law and its Results" (Fabian Society, London, 1898); N. P. Gilman, "Methods of Industrial Peace"; A. Bertram, "Quelques Expériences de la Conciliation par l'État en Australasie," *Revue d'Économie Politique*, 1897; A. Métin, Arbitrage et Conciliation en Nouvelle-Zélande, *Revue d'Économie Politique*, February, 1901; H. W. Macrosty, "State Arbitration and the Minimum Wage in Australasia," *Political Science Quarterly*, March, 1903; P. Leroy Beaulieu, "Les Nouvelles Sociétés Anglo-Saxonnes"; H. D. Lloyd: "Newest England"; and "Australasian Cures for Coal Wars," *Atlantic Monthly*, November, 1902; M. Davitt, "Life and Progress in Australasia"; F. Parsons: "The Story of New Zealand," and "The Abolition of Strikes and Lockouts," *Arena*, January, 1904; H. de R. Walker, "Australasian Democracy"; J. S. Grey, "Australasia Old and New"; P. Dutheil, "Un Pays Sans Grèves," *Le Correspondant*, December 25th, 1900, and April 25th, 1901.

The reader would do well to consult the numerous speeches made in the New Zealand Parliament, whilst the various Arbitration Acts were under discussion, and also the New Zealand newspapers. Several of these will be found in the Library of the Agent-General for New Zealand.

* A good account will be found in Reeves, "State Experiments in Australia and New Zealand"; Clark, "Labour Conditions in New Zealand"; and Siegfried, "La Démocratie en Nouvelle-Zélande."

have been passed in 1901 and 1903. In this chapter I purpose giving a description of the law, its working and its effects.

Although it is very common to talk about the New Zealand Compulsory Arbitration Law, the correct title of the Act is the "Industrial Conciliation and Arbitration Act," in which there is not only no mention of "compulsion," but the word "conciliation" appears. The explanation of this is to be found in the duplex character of the machinery set up under the Acts. New Zealand is divided into industrial districts,* in each of which there is a board of conciliation, consisting of two representatives of the employing class, elected by the unions of employers, and two representatives of the working classes, elected by the unions of workers, and of a chairman, elected by the other four members, or appointed, in case these four fail to agree, by the Government. When an industrial dispute is referred to the board for settlement, it inquires into it, and assists the parties to arrive at an industrial agreement, when possible, and in the other cases makes a recommendation, as to what the parties should or should not do. If the parties accept the recommendation, an industrial agreement to the same effect is drawn up. All industrial agreements are filed with the clerk of awards of the district, and become binding

* Eight in June, 1903; see Clark, "Labour Conditions in New Zealand," p. 1187.

in the same way as an award of the court of arbitration.

If no industrial agreement is arrived at, and the recommendation of the board is not accepted, the dispute is referred to the court of arbitration. This is constituted quite differently from the boards of conciliation. The president is a judge of the Supreme Court, appointed by the Government, and the other two members representing employers and employees, are appointed by the Government from nominees of the unions of employers and of employees respectively. There is only one court and it travels round the country hearing the disputes referred to it by the different boards. The boards may examine witnesses on oath, but the court has the further right to call for the production of books, and instead of making recommendations, which may be rejected or accepted, it makes awards, which are legally enforceable, a breach being punishable in the case of an employer by a fine not exceeding £500, and in the case of a union by each unionist being liable to a fine not exceeding £10.

One of the questions which have been most debated in New Zealand, is the relative advantages and disadvantages of the boards and of the court. The original idea was that the boards would be able to settle some 90 per cent. of the cases, whilst as a matter of fact they have not even settled 30 per cent. Some boards, however, have been far more successful in settling cases than others, as the following table will show :—

TABLE SHOWING THE DISPUTES SETTLED BY BOARDS OF CONCILIATION AND BY THE COURT OF ARBITRATION, APRIL, 1896, TO 30TH JUNE, 1902.*

	Settled by Board.	Settled by Court.	Total.
Auckland - - -	19	17	36
Wellington - - -	5	41	46
Canterbury - - -	10	40	50
Otago and Southland -	16	41	57
Westland - - -	4	4	8
Total - - -	54	143	197

Various reasons have been given for the relative failure of the boards. In some cases a wrong class of men have been appointed members of the boards. "Some members entirely fail to appreciate their function properly and become partisans, out and out, rendering their boards, boards of irritation rather than conciliation."† In March, 1901, a member of the Auckland Board is reported to have said:—

"I give you notice, that I am here as a partisan; I do not think that I am in the position of an impartial judge here. I am to represent one side of the case and intend to do so at every opportunity." ‡

* The table that is quoted by Mr. Clark, Labour Conditions in New Zealand, p. 1191.

† Report of the New South Wales Royal Commission of Inquiry into the working of the New Zealand Compulsory Conciliation and Arbitration Law, as quoted in the Fifteenth Annual Report of the New York State Board of Mediation and Arbitration, 1901, p. 391.

‡ Quoted in the above Report, p. 392.

Again, the office of chairman is often held by men who have neither the temperament nor the training fitting them for the position. In other cases no fault can be found with the members of the boards, and their want of success must be attributed to other causes. The formal judicial-like methods of the boards to some extent explain their failure. Again, neither side can count upon concessions from the other before the lower tribunal, which might prejudice its standing in an appeal. The workmen object to the decisions of the boards, because they are binding only upon the employers signing or actually cited in the case. But besides all this, the cheapness of appealing encouraged the party who was dissatisfied with a recommendation of a board to appeal immediately, in the hope that it might be reversed. On the other hand, it must be clearly recognised that the boards did good work. Mr. Justice Cooper, president of the court, speaking at Christchurch in April, 1901, expressed himself as follows :—

"I should be very sorry, if there was any impression in the public minds, that the boards are not a necessary part of the Act. They are very necessary."§

The work done by the boards was to settle some cases and greatly simplify many others, leaving some small points only to be decided by the court. This work is now more appreciated since the effect of Section 21 of the Amendment Act of 1901, allowing a

§ Report of the New South Wales Royal Commission, p. 393.

dispute to be taken direct to the court of arbitration, has been practically to supersede conciliation boards, and to congest the court with a press of business and delay its decisions.* In the future, no doubt, something will have to be done to remedy this; either the court will have to be relieved of some of its minor duties or a second court will have to be created.

From the machinery set up under the Act to conciliate and arbitrate, we may next turn to the method of setting this machinery in motion. This can be done only by an industrial union of employers or an industrial union of workers, and in practice is always done by the latter. The former can be created in any district by any two, originally seven, employers in the same industry registering as a union, and the latter by seven workmen employed in one industry doing likewise. The full title of the original law of 1894 was "An act to encourage the formation of industrial unions and associations, and to facilitate the settlement of industrial disputes by conciliation and arbitration," and these "industrial unions," which are something quite distinct from "trade unions," play a most prominent part in the whole system of compulsory arbitration. As already stated, only a union can commence proceedings under the Act, but on the other hand a single employer can be cited to appear before the court, and can be bound by its decisions, and in the same way non-unionist workers may be bound by decisions. The

* Twelfth Report of the New Zealand Department of Labour, 1903, p. iv.

minimum membership of the workers' union was placed as low as seven, so as not to exclude the operatives of small trades from benefiting under the Act. A union acts by the will of the majority, so that four dissatisfied workmen are able to embroil their employer in a dispute. This is undoubtedly one of the chief causes which have contributed to the large number of industrial disputes, and in New South Wales, as we shall see later, an attempt has been made to remedy this, by requiring a union to have a minimum membership of fifty workers. The questions arising out of industrial unions are by no means limited to the size of the membership, and at the present time no point is more discussed in New Zealand than that of compulsory preference to unionists. I shall have reason to refer to this again, when dealing with the question of preference to unionists in general, amongst the industrial matters which the court is competent to decide, and we may now consider these in the order in which they are enumerated in the definition of "industrial matters."

In the first place, the court has jurisdiction over all matters relating to "the wages, allowances, or remuneration of workers employed in any industry, or the prices paid or to be paid therein, in respect of such employment." Further, under Section 92 of the Act of 1900, the court may prescribe minimum rates of wages, and has done so in almost every case which has been brought before it. The question involves a good deal of difficulty, and the position of the court has not been easy. The court

has always shown itself desirous of raising wages and improving the conditions of the working classes; one result of doing this too freely is to render the more incapable workmen liable to dismissal, unless they can obtain certificates of incompetency allowing them to work for a lower wage, and these are not readily granted. On the other hand, a minimum wage tends to become a maximum wage, and by this means those originally earning higher wages may have theirs reduced. This in its turn would tend to lower the standard of workmanship. These risks, however, have not frightened the court from imposing raised minimum wages whenever possible, with consequences which we shall see when considering the effects of the law.

The second matter over which the court has jurisdiction is "the hours of employment, sex, age, qualification or status of workers; and the mode, terms, and conditions of employment." The most important action of the court under this section has been to reduce the hours of labour. This it has done with considerable freedom, and the effect is, of course, the same as that of raising wages. The question of apprenticeship has caused the court considerable difficulty, as the unions are in favour of indenturing apprentices, and this is found to be contrary to custom in several trades. The chief trouble with apprentices falls more under the next sub-section, allowing the court jurisdiction over "the employment of children or young persons, or of any person or persons, or class of persons in any industry, or the dismissal of or refusal

to employ any particular person or persons or class of persons therein." The unions claim to have the number of apprentices in any business limited to one for every three or at the most four journeymen. The workmen, thinking nothing of the future but entirely of the present, fear the growth of a class of cheap labour and wish to restrict it as far as possible. It is only fair to the court to say, that on more than one occasion it has shown considerable broad-mindedness when dealing with this question, and has refused to grant the desired restriction. The general policy of the court in this matter will be found in the remarks appended to the award in the Wellington grocers' dispute in 1902 :—

"There are some occupations where it is advisable to limit youths in number. But there are other occupations where no such limit is either reasonable or necessary, and as we have said on more than one previous occasion, it is our duty to see that the avenues for suitable work are not closed to the youth of the colony. We owe a duty to the boys of the community, as well as to the adult workers of the colony, and that duty we must perform to the best of our ability. In practically every occupation, the regulation of which has been submitted to this court, we have been asked to exclude youths beyond a limited proportion to the adults employed. The proportion is generally stated at either one youth to three or one youth to four adults employed. Thoughtful working men, we think, must recognise that if their boys are debarred from obtaining suitable employment in trades, from which there is no natural right for their exclusion, a wrong is done to these boys, and the difficulties surrounding the bringing up of a family are very much increased. The interests of the colony demand

that there should be no improper shutting out from the legitimate means of earning a livelihood by the youth of this colony; and we think that we are amply justified in the interests of the working classes themselves in again emphasising this principle. While therefore we do not limit in any way the employment of youth in this trade, we prescribe a scale of wages to be paid to them according to age, which we think will prevent any abuse."

The next point, of which mention has already been made, is "the claim of an industrial union of employers to preference of service from unemployed members of an industrial union of workers," and "the claim of members of industrial unions of workers to be employed in preference to non-members." The claim of unionists to preference is based upon the expense and trouble involved in obtaining an award, under which non-unionists benefit, but under which unionists maintain they should benefit first. The chief objection raised to preference is that it tends to create a labour monopoly. In recent times the court has granted preference to unionists pretty freely, provided the rules were such that a new member could be admitted without election on the payment of an entrance fee not exceeding 5s. and a weekly contribution of not more than 6d. The awards also stipulate that the union must be able to supply an efficient workman when an employer requires one, otherwise he is at liberty to employ a non-unionist. By a decision of the court of April, 1901, however, when a non-unionist has been engaged for want of an efficient unionist, the union is at liberty to provide one within

twelve weeks, and to require the employer to substitute him for the non-unionist. The unionists are now demanding to have preference rendered compulsory by law, though whether the desired amendment is likely to be passed, it is difficult to say, for the last Report of the Department of Labour (1903), which may be taken as being practically "inspired," throws no light upon the subject.*

The last thing falling within the definition of an industrial matter, is "any established custom or usage of any industry, either generally or in the particular district affected." This last matter is certainly pretty general, and upon it and the preceding matters the Court has at times put very liberal interpretations. I may just mention two of these as examples. The Court took upon itself to grant preference to unionists as early as 1896, and has continued to do so ever since, although it was only in 1900 that it was first authorised to do so by law. The second point is an exceedingly interesting one, and has reference to the subject of strikes. I may say in the first place, that whilst any case is under consideration, a strike or lockout is

* The following is the passage I refer to: "Strong desire is expressed among the ranks of trade unionists that "preference to unionists" should be made compulsory by statute. The plea used is, that the Court in giving preference, usually couples the privilege with the addendum, "other things being equal," and as it is left to the employer to say whether such equality exists, the grant of preference is useless with such a proviso. If the law is amended in the desired direction, it is probable that it will not be done without fierce opposition; but the principle is so important, that it is well worth full debate and enlightening discussion."

forbidden under a penalty of £50. It was generally believed, that after an award had been delivered, employers and employees were at liberty to cease work if they chose. It now seems that they are not even at liberty to do this. In February, 1903, the Court raised the minimum wage of the Auckland cabinet-makers 2d. per hour. The employers, deciding some of the men were not capable of earning the increased rate, suspended them till they could obtain certificates of incompetency. The registrar of industrial unions brought the case before the Arbitration Court. It could not be proved that there had been any agreement between the masters to discharge their workmen, and the case was dismissed. During the course of the case, the president made the following announcement:*

"If a combined and concerted action such as a strike took place, he should consider such action a breach of award, and punish it severely. It had hitherto been held by many, that a strike or lockout had only been punishable under the Act, if it took place while proceedings were pending or subsequently, but that once the award had been delivered, then strikes or lockouts were permissible. The president ruled, however, that he should act in the spirit, not in the letter of the law; and that as the spirit of the Act was in the direction of preventing industrial strife, he had the power to punish organised infractions of award."

By Section 5 of the Amendment Act of 1903 this judicial decision has been made law; and under

* Report of the New Zealand Department of Labour, 1903, p. v.

Section 6 of the same Act the dismissal of even a single workman by an employer in certain cases may be treated as a breach of the award.*

Above I have attempted to mention shortly all the more important features of the New Zealand Acts. For want of space many interesting details have had to be omitted, but a knowledge of these can easily be acquired by reading through the original Acts. Before considering the general effects of compulsory arbitration, I may just refer to one amendment introduced by the Act of 1900. Previous to this time an award could relate to the industrial district only in which proceedings were commenced. By Section 87 of the Industrial Conciliation and Arbitration Act, 1900, the Court is empowered to make Colonial awards, subject to the

* Sections 5 and 6 of the Industrial Conciliation and Arbitration Amendment Act, 1903, are as follows :—

5. "If during the currency of an award, any employer, worker, industrial union or association or any combination of either employers or workers, has taken proceedings with the intention to defeat any of the provisions of the award, such employer, worker, union, association, or combination and every member thereof respectively, shall be deemed to have committed a breach of the award and shall be liable accordingly."

6. "Every employer who dismisses from his employment any worker by reason merely of the fact that the worker is a member of an industrial union, or who is conclusively proved to have dismissed such worker merely because he is entitled to the benefit of an award, order or agreement, shall be deemed to have committed a breach of the award, order, or agreement, and shall be liable accordingly."

A note on the interpretation of Section 6 will be found in Appendix I.

right of any union of employers or workers, belonging to a district other than that in which the Court is sitting, when making the award, to lodge a protest, in which case, the award is to be suspended in that district, until the Court has sat there and heard and determined the objections. The difference in climate and general conditions between the north and south of New Zealand often tends to make a Colonial award unfair, so that the Court has seldom used its power under this Section.

Turning to the effects of the law, we find that the Act was brought on to the Statute Book with the intention of preventing industrial strife, so that we shall be justified in asking ourselves in the first place, how far it has been successful in achieving this end. New Zealand has been referred to as "a country without strikes*"; but this is not accurate, as small strikes have occurred from time to time. This does not prove that the law has been a failure, for everyone is at liberty to strike, before proceedings are commenced under the Act, and if both parties to the dispute are non-unionists, the strike may very well continue. The reader must not think that this desirable state of affairs is entirely due to compulsory arbitration, as there were practically as few strikes and lockouts before 1894 as since that date. All the Act has helped to do in this direction, is to check the number of strikes from growing in proportion to the

* This is the title of the late H. D. Lloyd's book, and the phrase will be frequently found in the literature dealing with New Zealand.

increased industrial population. If the number of strikes and lockouts has remained at such a nominal figure, the same cannot be said of the number of "industrial disputes," *i.e.*, "disputes arising between one or more employers or industrial unions or associations of employers, and one or more industrial unions or associations of workers in relation to industrial matters." There can be no doubt that a large number of the disputes would never have arisen but for the existence of the Act. Even Mr. Wise, who introduced compulsory arbitration into New South Wales, has written as follows on this subject* :

"In New Zealand, owing to the permission of any seven persons engaged, for no matter how short a time in one employment, to register themselves as an industrial union, employers have been exposed to being harassed by trivial complaints arising from the perversity or ill-will of their workmen, and sometimes, it is to be feared, incited by trade competitors."

In New South Wales, it may be mentioned here, Mr. Wise has attempted to overcome this objection by requiring not fewer than fifty workmen to unite in forming a union.

A word may be said at this point, with regard to the enforcement of awards. So far little trouble has been experienced on this account, the reason, no doubt being, that almost all the awards have been in favour of the workers, and that there is no difficulty in compelling employers to submit to awards. The number of fines imposed is by no means inconsiderable,

* N.S.W. Industrial Arbitration Act, *National Review*, August, 1902.

though no fine, apparently, has exceeded £25 in amount. The triviality and the unimportance of many of the proceedings for the enforcement of agreements brought before the court, are largely accounted for by the complainant receiving whatever fine is inflicted. Up to the present, only one or two small cases of breach of award have been brought against a union, and the evidence is insufficient to show whether an agreement could be effectually enforced, if a union were the defaulting party.

The chief work of the Arbitration Court has not been so much in maintaining industrial peace, as in improving the conditions under which the work-people labour. The Industrial Conciliation and Arbitration Acts practically constitute the court a legislative and a judicial body at the same time. The court in its awards first lays down the conditions under which a given trade is to work during the next years, and then proceeds to interpret the conditions drawn up by itself; at times it has even gone as far as to define the scope of its own jurisdiction. When a case of breach of award occurs, no jury is empanelled to hear industrial disputes; the decisions of the court are final, and no appeal can be made from them. It can safely be said, that no other court in the British Empire has such absolute power as an Arbitration Court under the compulsory system. There can be little doubt that the conditions under which women work have been considerably improved in New Zealand since the introduction of compulsory arbitration, and the general tendency has been to raise wages and reduce hours

all round. The consequence of this has been a general rise in prices. Employers, unable to pay the increased wages out of their existing profits, have succeeded to a large extent in shifting the burden on to the consumers.

All investigators are unanimous in asserting that the cost of living has increased, though Mr. Clark is the only one who expresses this tendency in figures: "The increase in the cost of living in New Zealand since the awards began to go into effect is variously estimated at from 20 to 40 per cent." * The prices of commodities quoted in the New Zealand Official Year-Books, of which examples will be found in Appendix II, clearly bear out Mr. Clark's testimony. The Report of the Department of Labour for 1902 admits the increased cost of living, but says that it appears to carry little disadvantage. This it tries to demonstrate in the following ingenious way: "As soon as the workman gets his wages, they are almost all distributed again directly; with high earnings he buys more bread, beef, beer, tea, clothes, theatre tickets, excursion tickets, etc., than if he made poor earnings." The statement would be exceedingly plausible, were it not that all mention of increased cost of the bread, beef, etc., were omitted. The same report asserts that the farmer, whose produce goes over seas, has also not been harmed by the enhanced cost of living. If this is really so, and increased agricultural exports seem to point in this direction, it only shows that the farmers have been able to add

* Labour Conditions in New Zealand, p. 1240.

so much on to the price of what they sell at home, as to cover any loss they may incur on their exports.

We may now consider in a general way, what the effects of compulsory arbitration have been upon New Zealand industry. It certainly has not been killed, and there is no proof to show that it has been particularly harmed, except in the case of the boot and shoe industry.* The chief reason for this has already been given above: employers have been able to pay the increased wages out of the increased prices they have obtained for their products. The boot and shoe industry, owing to the tariff not being sufficiently high, has not been in a position to stand a sufficient rise in prices to support the awards, and imports have increased to a considerable extent during recent years, whilst the home industry has been practically stationary. The peculiar conditions which have left New Zealand apparently unharmed, after working for ten years under a system of compulsory arbitration, have been well summed up by M. Challaye, a French gentleman, who visited New Zealand in the spring of 1900:

"It is because New Zealand is not big, has a small population, is rich in natural riches, it is above all because it is isolated—both geographically and economically—that it can support its social legislation, which is so advanced, without being crushed by foreign competition."

* For some unfavourable views of the effects of compulsory arbitration, the reader may consult J. MacGregor and F. G. Ewington [see Appendix III] and also the table on p. 168.

A tariff wall is essential to successful compulsory arbitration, but more is required besides that. In a large country the question of enforcing awards would be exceedingly difficult, if not impossible, for it must be remembered, that New Zealand is not only a small country, but an agricultural one at that, in which practically all awards have been favourable to labour. But one thing perhaps more than another has contributed to the successful working of compulsory arbitration in New Zealand. Ever since it was introduced in 1894, the country has been enjoying a great wave of prosperity. What the effects of a period of depression would be, it is difficult to say. The country has also been fortunate in more than once having a very capable judge as president of the court of arbitration. Mr. Justice Williams, the first president, and Mr. Justice Chapman, the present one, can certainly be numbered amongst the most successful. We will now consider the attitude of employers and employees towards compulsory arbitration, and I shall have reason to refer again to the prospects of the future success of the Acts.

There is probably no question concerning compulsory arbitration, about which more contradiction of opinion exists, than that of the attitude of New Zealand employers towards the law. In the first place, there is usually a good deal of bandying with words. Some people express their belief in the principle of the Act, whilst cordially hating the Act itself. Others will declare themselves as satisfied

with the court of arbitration, referring, of course, to its honesty and its fair-mindedness, without for a moment meaning that they would not like to see compulsory arbitration abolished. The report of one recent investigation into the working of the New Zealand law contains the statement, that :—

"In no part of the Colony we visited, did we hear any general desire for its repeal."

And the chairman of this same Commission is reported to have said :—

"We examined a large number of witnesses from both sides, and, with the exception of one employer, there was a unanimous opinion that the Conciliation and Arbitration Act is a sound one, and that they would be very sorry indeed to go back to the old order of things."

If the Commission wishes to convey the opinion to the readers of its report, that employers in New Zealand are, generally speaking, quite satisfied with the Compulsory Arbitration Acts, it is certainly very seriously misleading them.* The opinions of the

* The Commission I refer to is the Victorian Royal Commission appointed to investigate and report on the operation of the Factories and Shops Law of Victoria. The first quotation is from its report pp. xxiii–xxiv and the second from the reprint of the Report of the Special Commissioner of the Adelaide (S.A.) newspaper, the *Advertiser*, "Industrial Legislation in New Zealand: The Conciliation and Arbitration Act," p. 8. With regard to the witnesses examined by the Commission the following quotation from Clark, p. 1246, is interesting :—

"Business men went out of their way in three cities to say that the publicity given their testimony prevented employers from testifying or stating their views frankly before

the Australian Commissions sent over to investigate the working of the Act, lest they thereby injure their business." The value of the opinions expressed by this Royal Commission is greatly reduced by the fact that they are very one-sided. The only thing with which the Victorian Commission can be compared is the "Tariff Reform Commission," for both were appointed to demonstrate the need of something, in the value of which every member of the Commission firmly believed before the investigations were commenced. The last Victorian Government, wishing to show the value of compulsory arbitration, sent a Commission to New Zealand and New South Wales, every member of which probably firmly believed in compulsory arbitration before he was appointed, otherwise we should hardly find nine Commissioners unanimously signing a report, which is out and out favourable to compulsory arbitration, as the following passage from the report (p. xxiii) will show:—

"Despite certain defects in detail, which have been revealed by experience, the New Zealand Conciliation and Arbitration Acts remain to-day the fairest, the most complete and the most useful labour law on the Statute-books of the Australasian States. And it is, on the whole, a wise social law, on the one hand protecting the fair-minded employer from the dishonest competition of the sweater, who keeps down the cost of production by paying miserably low wages, and, on the other hand, the toiling thousands, to whom a rise in wages of a few shillings a week when an industry can fairly bear it, often means the difference between gripping poverty and comparative comfort. But beyond that it has the great merit of providing effective means for preserving unimpaired the industrial relationship of employer and worker, in forbidding the miserable warfare, which displays itself in strikes and lockouts, and the stern reprisals which too often accompany them; while ample opportunity is given for conciliatory methods of settling disputes before compulsion is invoked."

In spite of the compulsory arbitration law being the "fairest, the most complete and the most useful labour law on the Statute-books of the Australasian States," the present Victorian Government has shown the value it attaches to the report of this Commission, by carefully avoiding to follow its recommendations.

TABLE SHOWING THE OPINIONS OF EMPLOYERS RELATIVE TO THE NEW ZEALAND CONCILIATION AND ARBITRATION ACT.

Questions.	Wellington. Persons replying.			Christchurch. Persons replying.			Dunedin. Persons replying.			Total. Persons replying.		
	Yes.	Qualified.	No.	Yes.	Qualified.	No.	Yes.	Qualified.	No.	Yes.	Qualified	No.
In your opinion was such a measure required :												
For the purpose of removing any actual difficulties existing	5	2	26	5	7	19	*	*	*	10	9	45
As a preventive of prospective evils not otherwise provided for	5	3	25	5	3	25	*	*	*	10	6	50
For any other justifiable purpose	5	3	25	2	7	19	*	*	*	7	10	44
Has the operation of the Act been in your opinion beneficial in :												
The promotion of good feeling between employers and employed	2	—	33	—	—	28	—	3	26	2	3	87
Increasing the efficiency or conscientiousness of workmen	—	—	34	—	—	28	—	1	27	—	1	89
Increasing the general prosperity	1	5	28	—	—	28	—	6	20	1	11	76
In your opinion, has the Act been productive of evils in :												
Creating disputes between employers and employees	31	3	1	36	—	1	29	—	—	96	3	2
Causing loss or waste of time to employers and employees during the hearing of such dispute	31	3	1	30	—	1	22	2	2	83	5	4
Causing interference with employers in the control of their business	31	2	2	29	—	1	26	2	—	86	4	3
Limiting the development and lessening the operations of trade and manufacture	31	2	2	29	—	1	20	3	1	80	5	4
Increasing the expenses of business, without increasing the volume of profit thereof	32	2	—	29	1	1	23	1	—	84	4	1
Discouraging or preventing the investment of capital in industries	32	2	—	29	—	2	27	—	—	88	2	2

* This question was not sent out in Dunedin.

great majority of investigators go to show, that, with certain exceptions, New Zealand employers as a class are not in favour of compulsory arbitration. What is probably the best evidence we have on this subject are the answers to a set of questions sent by the employers' associations in Wellington, Christchurch and Dunedin to their members.* The table given on page 168 is quoted by Mr. Clark and he adds the following comment to it :†

"About thirty replies were received in each city, the answers frequently being from the secretary of an industrial union of employers, voicing the opinion of all the members of the society, so that the actual value of each reply varied, some representing individual and some collective opinions. But in no instance, so far as the writer could learn, were opinions favourable to the Act indorsed by more than a single individual. Upon numerical rating, therefore, the balance of opinion adverse to the law as it stands at present, would be considerably heavier than it appears in the table."

It will be seen that the table is very complete, containing answers to several questions dealt with above. The majority of the answers are in every case unfavourable to compulsory arbitration, and whether these gentlemen could produce definite proof of their assertions or not, it clearly shows that

* A similar set were sent in Auckland, but the tabular statement is omitted, as the exact figures could not be obtained, but the replies averaged about the same as those from the other cities. I have also before me a detailed set of answers to a series of questions sent out by the Otago Employers' Association. The same opposition to the Act as that indicated on page 168 can be clearly gathered from them.

† Industrial Conditions in New Zealand, p. 1246.

employers as a class are dissatisfied with the Act, and it would be very surprising to find that they were not.

Turning from the attitude of employers to that of employees, we find the position is almost exactly reversed. Taken as a whole, the workers are strongly in favour of the Act, and the explanation undoubtedly is, that the decisions have almost always been in their favour. Whenever the contrary has been the case, much dissatisfaction has been expressed by the employees, and this tends to make one very doubtful as to what would happen, if, owing to a depression in trade, a whole series of awards went against them. The question of enforcing agreements against the workers has so far been put to no serious test, and it is just the same with regard to the prohibition to strike whilst proceedings are pending. In this connection it is interesting to note what a New Zealand gentleman, Mr. O. T. J. Alpers, against whom, so far as I know, no imputation of bias can be made, has written on this subject.*

"It is true that an employer has but to lodge a dispute and the men are bound to continue to work, till the dispute is ended. But how *bound?* The property of the Union is liable to attachment and the members are individually liable up to £10 if they disobey. But the chances are the Union has scarcely any funds, and the remedy against the individual workmen is, for obvious reasons, purely illusionary."

There can be no doubt that the future success or

* The quotation is from the chapter written by Mr. Alpers on Compulsory Arbitration in Irvine and Alpers, Progress of New Zealand in the Century, p. 349.

failure of the Act depends largely upon the attitude of the workers, and from the indications of this attitude, which have been given in the past, the prospects of the success of the Acts in a period of depression is none too rosy. M. André Siegfried is distinctly of this opinion and Judge Backhouse, whilst in favour of compulsory arbitration, hints gently at the same thing, when he writes towards the end of his report:

"If the award is to be accepted only when in favour of one class, if it is to be flouted when against that class, the Act had better at once be wiped out of the statute books."

*New South Wales.**—The Industrial Arbitration

* The Industrial Arbitration Act, 1901, is published separately as a New South Wales Government paper and will also be found in the Fifteenth Annual Report of the New York State Board of Mediation and Arbitration, 1901, and in the Bulletin of the United States Department of Labour, No. 40. To understand fully the difference between the New South Wales Law and the New Zealand Law, it is necessary to read the Report of the N.S.W. Royal Commission on the Working of the Compulsory Conciliation and Arbitration Law in New Zealand. The only investigation into the working of the Act is that of the Victorian Royal Commission, which was made after the law had been in existence only a few months. Other writings bearing on this Act are: B. R. Wise: What I expect from the New South Wales Industrial Arbitration Act, *Review of Reviews* (Australia), December, 1901, and The New South Wales Industrial Arbitration Act, *National Review*, August, 1902; W. P. Reeves: The New South Wales Industrial Arbitration Act, *Economic Journal*, September, 1902, and State Experiments in Australia and New Zealand, Vol. II.; F. R. Sanderson, Industrial Arbitration in New South Wales, *Juridical Review*, December, 1902; and Dr. Cullen's article against the Act in the *United Australia*, November, 1901.

Act, 1901, establishing compulsory arbitration in New South Wales, was passed after the Report of the New South Wales Royal Commission had been published. In many ways the act closely resembles the New Zealand law, but there are a few important differences, and it is only these to which I intend to draw attention in this essay. In the first place, there are no boards of conciliation in New South Wales, and all disputes are referred directly to the Court of Arbitration. This alteration of the New Zealand system can be traced to Judge Backhouse's Report. The New South Wales Court is authorised to establish by its awards "common rules" for the whole colony and apparently does so at every opportunity; on the other hand, though the New Zealand Court has power to make Colonial awards, it uses this power but slightly. Another distinguishing point of the New South Wales system is that the registrar has power to submit a reference to the Court, even against the will of the contending parties. Perhaps the most interesting section of the whole Act is Section 34, which makes a strike or lockout a misdemeanour, punishable by a fine not exceeding £1,000, or imprisonment not exceeding two months.

With regard to the working of the Act, sufficient time has not elapsed for any definite judgment to be made. It appears evident, however, that some harm has been done, and the prejudicial effects of certain judgments under the Act on the glass-blowing industry, are clearly shown by the following passage

taken from a long and detailed article in the *Sydney Morning Herald*, July 22nd, 1904 :

"To-day, instead of there being seven flourishing factories only three of the smallest remain, and 50 per cent. of the bottles used in Sydney are imported cheaper than they can be made locally, despite a handicap of 50 per cent. in freight and duty."

The same observation with regard to the attitude of the employees towards the Act can be made in New South Wales as in New Zealand.

"The arbitration law in New South Wales has been in operation over a year, and it has been found, that so long as its decisions are in accordance with the wishes of the employees, there has been no resistance ; but whenever a decision has been adverse to them, they have shown a spirit of resistance."*

On one occasion already, the Newcastle (N.S.W.) colliers refused to work in defiance of a decision of the Court, but they submitted unconditionally, before proceedings were taken under the Section making strikes misdemeanours. This attitude of the workers hardly promises well for the future.

As far as one can judge from reading through the Industrial Arbitration Records† the cases brought before the New South Wales Court are very similar to those in New Zealand. One recent judgment is

* The passage quoted is from the American Consular Reports, May, 1904.

† These records are got up very similarly to the ordinary law reports. The indexing, headnotes and method of citation all tend to make the resemblance more striking.

worth mentioning. The case is that of *in re Ranselius** and the head-note is as follows :—

"A master of a foreign ship trading to this port is subject to the jurisdiction of the Court of Arbitration, and is liable to a penalty, if he employs his crew in discharging cargo, contrary to the terms of the wharf-labourers' award."

In this particular case the Court fined the master of an American ship £50.

One cannot but be of the opinion, that the Court would do better to restrict its activity to regulating home industries, instead of doing its best to draw down upon itself international protests by interfering with foreign shipping. The author of the Act once defined the court as " a sort of elastic and self-acting Factory Act which will assimilate the conditions of employment in each trade to those which prevail in the best conducted establishments." † Even this definition does not seem broad enough to cover all the self-imposed activities of the court.

Other Countries.—A compulsory arbitration law was enacted in *Western Australia* in 1900, and in 1902 another law, the Industrial Conciliation and Arbitration Act, 1902, was passed. Throughout, this latter Act closely follows the New Zealand law, but there is little evidence forthcoming with regard to its working, and what little there is, is contradictory. From a conversation I had with the Hon. W. P. Reeves, I gathered that so far the Act had worked successfully.

* [1904] A. R., p. 54.

† B. R. Wise, The New South Wales Industrial Arbitration Act, *National Review*, August, 1902, p. 895.

On the other hand, a recent article* takes a much more unfavourable view of the question :

"The Western Australian Chamber of Mines declares that, far from blending the interests of the employer and the workers for mutual good, it (*i.e.*, the Compulsory Arbitration Act) has set up a continuous process of irritation, which is assuredly driving these two factors wider apart. The Council of the Chamber say, that striking illustrations of the absolute futility of the Act in practice is afforded by the action of the timber employees in the South West District (W.A.), and the Teralbo Coal Mines (N.S.W.) In both cases the award was instantly repudiated, when it operated in the slightest extent in a manner unfavourable to the workers."

In *South Australia* the Conciliation Act, 1894, provided for compulsion, but it has been a dead letter ever since 1895, and at present there seems to be no probability of an effective Act being passed. In August, 1904, the labour ministry of *Australia* attempted to pass a Compulsory Arbitration Act for the Commonwealth. It was to apply to inter-state disputes only, so that its application would certainly have been attended with considerable difficulties. The Act, however, as the reader will no doubt be aware, was not passed, the ministry resigning after suffering defeat on the subject of preference to unionists. In *Victoria* the Royal Commission reported in favour of compulsory arbitration on the New Zealand system. One modification the Commission suggests, is the enlargement of the powers of the Conciliation Boards, so as to make an award for

* R. H. in the *Manchester Evening Chronicle*, September 21, 1904.

a period of six months, with permission to the disputants to appeal to the Arbitration Court, if dissatisfied at the end of that time. The Court of Arbitration would thus become solely a Court of Appeal. The Commission also recommended, that unions of workers should not be formed, unless half the workers of the trade were included. Further, whilst they too place the minimum membership at seven, they suggested that a two-thirds majority should support any application to the Court. The scheme, however, is shelved for the present, as a Conservative Government came into power before the Commission reported.

The prospects of compulsory arbitration being established elsewhere in Australasia at the present time are very slight. In Europe there has been a talk of attempting to establish some such system in France. A Bill to this effect has been introduced more than once by M. Millerand, but so far it has not passed.* Whether the Bill will ever become law, and what the final form would be, if it did so, it is impossible to say.

Optimists, or more strictly speaking, pessimists, foresee a time when the United States will adopt a similar system. This, however, seems exceedingly unlikely; all the theoretical and practical objections which can be raised to compulsory arbitration in a small agricultural country like New Zealand, would apply with greatly increased force to a great

* See F. Challaye: L'Arbitrage Obligatoire en Nouvelle-Zélande. *Revue Politique et Parlementaire*, September, 1903.

industrial country like the United States ; and if the country were successful in adopting the system, it would have taken such a retrograde step, as would throw back the development of its industry into its very earliest stages. If any great manufacturing country wishes to commit industrial suicide, it cannot do better than adopt compulsory arbitration.

CHAPTER VIII.

CONCLUSION.

After studying the literature of industrial conciliation and arbitration, certain general features cannot fail to impress themselves on one's mind. In Great Britain, the oldest of the great industrial countries, recent years have seen a steady growth of industrial peace; in France, in the United States and in Germany the increase of industrial warfare is more and more marked; in the Australasian Colonies at the commencement of the "nineties" there were one or two large strikes, and since then a few small ones. The facts permit of one clear deduction being drawn from them. In small countries, where industry is just springing up, there are hardly any strikes; in large countries with rapidly increasing industry, strikes become more and more frequent; as a country reaches the highest stage of industrial development, and above all as its employers and employees become more educated, and learn to know each other and their own industry better, there is a great growth of industrial peace. The characteristic of the earliest stages of industry is the fixing of wages by custom or government. Nowhere do we see this more clearly than in England during the many centuries preceding the

nineteenth. And now we see it again in the compulsory arbitration of Australasia. If the industries of these countries flourish and increase, the system of the fixing of wages by government will inevitably break down, just as it did in England, and will probably leave the relationship between employers and employees more strained than if the regulation had never existed.* No system can be invented, as far as economics and history offer us a basis for forming an opinion, which will enable the industry of any country to avoid the intermediate stage of war, so as to pass straight from the period of industrial peace upheld by custom or government, to that upheld by experience. A relative industrial peace of the true character may be a long time in coming, but it will come as soon as the development of industry and the education of the people permit of it. Before it can come, it is absolutely essential that employers and employees should be brought to appreciate as fully as possible the complicated problems of industry. This alone boards of conciliation can facilitate. Arbitration cannot educate; it can only demonstrate the confidence which masters and workmen have in the honour, impartiality and fair-mindedness of their fellow men. Compulsory arbitration is worse than useless, for it tends to cultivate a spirit of antagonism between employers and employed.

Industrial conciliation can be effected in many

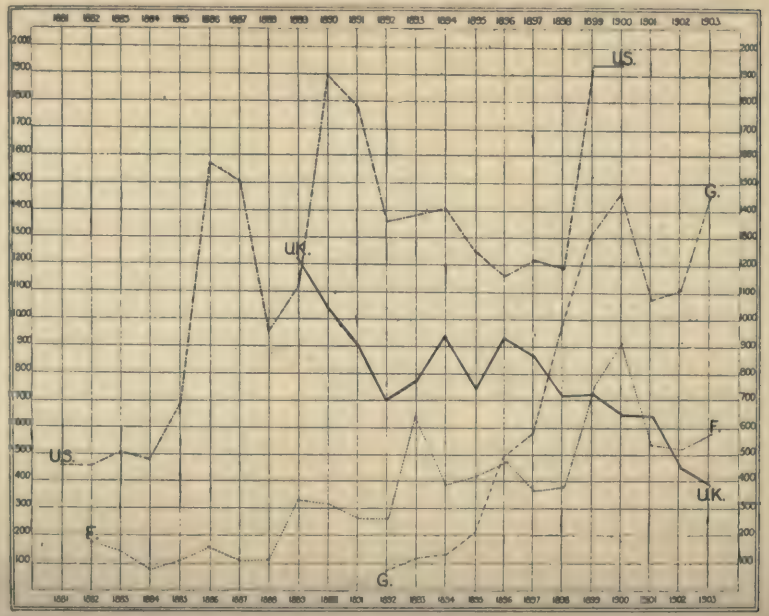
* No strikes in Great Britain were more violent than those occurring immediately after the repeal of the Combination Acts.

ways, but they are not all equally valuable from an educational point of view. A district or a general board may save a strike being entered into on specific occasions, but it can foster none of the good feelings between employers and employees which trade boards do. The English Trade Unionists on the Mosely Industrial Commission recommended the establishment of a National Civic Federation in Great Britain. Whilst the value of such a federation would exceed that of district and general boards, it would fall far short of that of trade boards. England has by no means reached its highest stage of industrial development, or attained to an ideal standard of industrial peace; and it is quite possible that the establishment of a National Civic Federation would tend to reduce the number and severity of strikes and lockouts. But whilst trade boards may be looked upon as the schools in which future generations of employers and employees are to be educated, a civic federation can be treated only as something which will pass away with the increased growth of industrial peace.*

We may now turn our attention more closely to the stages of industrial peace reached at the present time by various countries. The most important evidence we have on the subject is the strike statistics. It would very probably be misleading to compare the number of strikes in one country with those in another,

* This is also the view taken by the founders of the National Civic Federation of America, who look upon the Federation as a temporary institution only, which is to assist in the solution of industrial disputes, until a higher stage of development has been reached.

DIAGRAM SHOWING THE NUMBER OF INDUSTRIAL DISPUTES IN THE UNITED KINGDOM, THE UNITED STATES, FRANCE, AND GERMANY.



(For explanation, see the opposite page.)

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seeing we know nothing about the system upon which the figures have been collected. The only satisfactory thing is to compare the figures for different years of any one country. This has been done, and the results can easily be seen from the diagram opposite.* The following table indicates the meaning of the lines and letters used.

Country.	Initial.	Line.
United Kingdom - -	U.K.	———
United States - - -	U.S.	—.—.—.—.—.
France - - - -	F.	. . . . .
Germany - - - -	G.	– – . – – . – – . – – .

Nothing is clearer in this diagram than the great growth of industrial peace in the United Kingdom during recent years, and it would appear that the year 1904 has been more free from strikes and lockouts than any of its predecessors.† It is equally clear, that no other great industrial country can

* The figures used are the official ones, (for the United States the number of lockouts being added to the number of strikes), except in the case of Germany for the years 1892–1898, where the figures used are those quoted by R. della Volta in L'Arbitrato degli Scioperi, *Giornale degli Economisti*, June, 1903. These figures are practically identical with those given in Conrad and Lexis, "Handwörterbuch der Staatswissenschaften" (second edition, 1898), vol. i, page 768, except that the dictionary gives no figures for 1898.

† This is best seen by comparing the statistics for 1903 with the preliminary figures from the *Labour Gazette* for 1904 :—

	No. of Strikes and Lockouts.	Workpeople affected,	Days lost.
1903	387	116,901	2,338,668
1904	334	83,922	1,416,265

TABLE SHOWING THE NUMBER OF INDIVIDUALS IN THE UNITED KINGDOM (EXCLUSIVE OF AGRICULTURAL LABOURERS, RAILWAY SERVANTS, AND SEAMEN), AFFECTED BY CHANGES IN RATES OF WAGES, 1896–1903.*

	1896.	1897.	1898.	1899.	1900.	1901.	1902.	1903.
Without Strike:								
Building Trades	57,708	74,869	62,105	44,422	62,252	34,699	10,904	3,889
Mining & Quarrying	201,202	248,169	646,238	665,762	703,990	725,072	744,639	764,071
Metals, Engineering & Shipbuilding	246,810	187,616	210,918	151,130	93,381	100,528	100,888	90,349
Textile Trades	7,364	6,708	5,999	230,285	123,392	2,025	1,317	918
Clothing Trades	2,664	437	1,574	3,068	7,995	3,476	19,809	1,965
Miscellaneous Trades	36,185	35,414	36,300	46,636	89,816	51,773		21,658
Total	551,933	553,213	963,134	1,141,303	1,080,862	917,573	877,557	882,850
After Strike:								
Building Trades	31,238	8,350	12,620	21,820	16,348	4,988	4,671	749
Mining & Quarrying	5,934	2,420	27,667	826	1,447	678	4,739	640
Metals, Engineering & Shipbuilding	18,131	18,646	4,652	5,491	1,904	2,688	784	9,757
Textile Trades	2,592	2,607	2,979	2,369	1,697	1,073	790	83
Clothing Trades	733	1,502	991	136	486	1,933	1,815	1,531
Miscellaneous	4,142	10,706	3,126	3,631	33,078	3,193		988
Total	62,770	44,231	52,035	34,273	54,960	14,553	12,799	13,748

* Compiled from the Annual Reports on Changes in Wages and Hours.

claim to be in a position comparable with that of the United Kingdom.

We are enabled to study the industrial situation of our own country more closely than the diagram permits, thanks to certain statistics published annually by the Board of Trade since the middle of the "nineties." We have already noticed that wages questions are the principal cause of industrial disputes. On the opposite page a table will be found, showing the number of individuals affected by changes in rates of wages, without and after strikes respectively. The following figures briefly summarise this table, and all comment is unnecessary :—

Year.	Percentage of Workpeople affected by Changes in Rates of Wages arranged	
	Without Stoppage.	After Stoppage.
1896	89·7	10·3
1897	92·6	7·4
1898	94·9	5·1
1899	97·1	2·9
1900	95·2	4·8
1901	98·4	1·6
1902	98·6	1·4
1903	98·5	1·5

Alterations of the hours of labour are a minor cause of strikes and on page 184 a table is given, showing how far these are affected by peaceful methods.

No further proof of the growth of industrial peace in the United Kingdom is necessary, and it now remains for us to consider to what this desirable

TABLE SHOWING THE NUMBER OF WORKPEOPLE IN THE UNITED KINGDOM (EXCLUSIVE OF AGRICULTURAL LABOURERS, RAILWAY SERVANTS, AND SEAMEN) AFFECTED BY CHANGES IN THE HOURS OF LABOUR, 1896–1903.*

	1896.	1897.	1898.	1899.	1900.	1901.	1902.	1903.
Without Strike:								
Building Trades	61,125	13,579	16,156	7,362	7,546	2,935	12,251	1,301
Mining and Quarrying	500	123	726	1,963	27,340	629	460	58
Metal, Engineering and Shipbuilding	6,178	27,754	4,841	7,270	3,416	1,562	464	930
Textile Trades	30	273	–	118	79	65	1,037,000	–
Clothing Trades	2,721	–	2,599	2,144	2,306	140	4,779	–
Miscellaneous	16,720	22,587	10,268	10,842	13,953	21,174		4,718
Total	87,274	64,316	34,590	29,699	54,640	26,505	1,054,954	7,007
After Strike:								
Building Trades	18,605	2,325	3,656	2,701	1,565	1,564	2,389	440
Mining and Quarrying	174	9	60	1,815	270	443	106	–
Metal, Engineering and Shipbuilding	1,217	2,506	181	–	376	210	32	–
Textile Trades	95	–	42	–	–	–	–	–
Clothing Trades	–	–	–	419	–	12	26	–
Miscellaneous	906	1,476	520	1,315	875	542		–
Total	20,997	6,316	4,459	6,250	3,086	2,771	2,553	440

* Compiled from the Annual Reports on Changes in Wages and Hours.

TABLE SHOWING THE NUMBER AND PERCENTAGE OF WORKPEOPLE IN THE UNITED KINGDOM AFFECTED BY CHANGES IN WAGES, ACCORDING TO THE AGENCIES ARRANGING THEM, 1896-1903.*

Agencies by which Changes in Wages were arranged.	No. of workpeople affected and percentage of such whose wages were arranged by each agency.															
	1896.		1897.		1898.		1899.		1900.		1901.		1902.		1903.	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Sliding Scales -	136,288	22	135,618	23	169,003	17	178,018	15	183,889	16	191,205	21	172,988	19	23,119	3
Conciliation Boards, Joint Committees, Mediation or Arbitration.	60,254	10	15,522	2	32,574	3	379,285	32	480,157	42	507,355	54	541,152	61	675,742	75
Total - -	196,542	32	151,140	25	201,577	20	557,303	47	664,046	58	698,560	75	714,140	80	698,861	78
The parties concerned or their representatives.	411,112	68	446,304	75	813,592	80	618,273	53	471,740	42	233,566	25	176,216	20	197,737	22
Grand Total -	607,654	100	597,444	100	1,015,169	100	1,175,576	100	1,135,786	100	932,126	100	890,356	100	896,598	100

* Compiled from the Annual Reports on Changes in Wages and Hours.

state of affairs must be attributed. There cannot be the least doubt, that it is due to the excellent private systems of collective bargaining, conciliation and arbitration established in the United Kingdom. This will be clearly seen from the table on page 185, where the steady increase in the organised methods of arranging changes in wages, as compared with the unorganised methods, and the great growth in the activity of trade boards in particular, are strikingly revealed.

Throughout this essay, past and present attempts to encourage industrial peace by means of conciliation and arbitration have been under discussion. In conclusion, one word may be said as to the future. There can be no doubt, that in economics, what is true of one generation, is not necessarily true of the next, so that it is all the more remarkable, that words written over twenty years ago can be quoted to-day and are as correct as when first written. No one was better fitted to speak on industrial and social problems than the late Arnold Toynbee, from whom the following passage is quoted : *

" We should do all that lies in us to establish Boards of Conciliation in every trade, when the circumstances—economic or moral—are not entirely unfavourable. I know it is not easy to form them and difficult to maintain them. But notwithstanding failures and obstacles, I

* Industry and Democracy, published in his Industrial Revolution, p. 201.

believe these boards will last and more than that, I believe that they have in them the possibilities of a great future . . . I may point out that Boards of Conciliation may grow into permanent councils of employers and workmen, which—thrusting into the background, but not superseding Trade Unions and Masters' Associations—should, in the light of the principles of social and industrial science deal with those great problems of the fluctuations of wages, of over-production and the regulation of trade, which workmen and employers together alone must settle. However remote such a consummation may appear—and to many it must seem remote indeed—of this I am convinced, that it is no dream, but a reasonable hope, born of patient and historical survey and sober faith in man's high nature. And it is reasonable above all in England, where, owing to a continuous, unbroken history, some sentiment of mutual obligation between classes survives the dissolution of the ancient social system."

The bright future Arnold Toynbee foresaw for England twenty years ago, is already being fulfilled. Everything points to the growth of good feeling between employers and workmen. "The era of great strikes and lockouts, notwithstanding some of the severest conflicts which have occurred, have taken place recently, is really passing away, and I believe that the rule of reason is asserting itself. When this rule shall hold sway more completely, capital and labour will learn that their interests are not identical and are not antagonistic, but that they are reciprocal. When this is learned it will be more fully understood, that voluntary conciliation in industrial matters is one of the highest and broadest features of co-operation, and at the same time one of the simplest methods

for restoring harmony, when conflict is threatened, or even where it already exists." *

How long it will take other great industrial countries to reach a position even as satisfactory as that at present enjoyed by the United Kingdom, it is impossible to say. The road to peace is through war and no panacea for industrial disputes can be found, but it is possible to do much by building up and consolidating a voluntary system of conciliation and arbitration, in which trade boards are given the first place. Absolute industrial peace is impossible, as long as the problem of distribution remains what it is to-day, but there is no reason to believe that industrial warfare cannot be reduced to a minimum, which lies far below that at present achieved. The number of strikes and lockouts may increase for a time, until employers and employees have learnt to understand the problems of industry better than they do at present; but given a good system of voluntary conciliation and arbitration, the prospects of a relative industrial peace in the future, if not brilliant, are at least bright and hopeful.

* The passage in inverted commas is quoted from C. D. Wright, *Forum*, May, 1893.

APPENDIX I.

NOTE TO SECTION 6 OF THE INDUSTRIAL CONCILIATION AND ARBITRATION AMENDMENT ACT 1903 (see footnote, p. 159).

Wishing to understand, what the above section really involved, I communicated with the Hon. W. P. Reeves on the subject. The following was the question to which I desired an answer :—

"Would an employer, dismissing a workman, who in his opinion is incapable of earning a new minimum wage imposed by the Court of Arbitration, or suspending such a workman till a certificate of incompetency is obtained, have committed a breach of the award and be liable accordingly under Section 6 of the Amendment Act of 1903? The particular case I am thinking of is the one referred to on page v. of the Report of the Department of Labour for 1903. There the president laid down, that an individual employer is competent to dismiss his workmen, although concerted action would constitute a lockout. The Report expresses the opinion that an amendment of the Act is desirable in the direction of preventing a worker at minimum wage being deprived of the advantage of a rise awarded by the Court. Had this section been in existence when the so-called 'lockout in Auckland' occurred, would the action of the employers have been a breach of the award?"

In reply Mr. Reeves kindly wrote to me as follows:

"The right of an employer to dismiss an incompetent workman is clear, and if the alleged cause is the true cause—has never been doubted or contested."

"Your view of the action of the Auckland employers will depend upon whether you believe their assertion, that their simultaneous dismissal of some sixty workmen was not a concerted attempt to defeat an award."

"Of course, whenever wages are put up by an award, an angry employer may assert that his workmen are not competent to earn fairly the higher wage. But that would not make them incompetent workmen in the eyes of a suitable judge. An employer must have a *bonâ fide* reason for alleging personal incompetence. Then he may dismiss. There is no doubt that a good many inferior workmen have been quietly shelved, man by man, and nothing said. But such men have usually been taken on again or engaged by other employers. Some of them have had to change their occupation."

APPENDIX II.

WAGES AND PRICES IN NEW ZEALAND, 1892 AND 1902.

Although the figures quoted below from the New Zealand Official Year-Books, 1893 and 1903, are by no means complete, they show the great increase in the cost of living due largely if not entirely to the general rise in wages occasioned by the working of the Industrial Conciliation and Arbitration Acts. Quite recently the New Zealand Labour Department issued a short report comparing the price of certain commodities in 1893 and 1903. In some ways it supplements the information contained in the New Zealand Official Year Books. House rent (Wellington) rose 25 per cent. from 1893 to 1903, and over the same period the price of men's clothes (to order) increased 16 per cent. The other figures in the Report confirm those quoted below.

[A short notice of the Report will be found in the *Labour Gazette*, August 1904.]

WAGES IN NEW ZEALAND, 1892 AND 1902.

Description of labour.	Auckland.		Hawke's Bay.		Wellington.		Canterbury.	
	1892	1902	1892	1902	1892	1902	1892	1902.
Masons per day, without board	8/–10/	10/–14/	10/–12/	11/–14/	9/–12/	10/–12/6	10/	10/–12/
Plasterers ,, ,, ,, ,,	7/–8/	10/–14/	10/	12/–14	9/–12/	10/–14/	8/6–11/	10/–12/
Bricklayers ,, ,, ,, ,,	7/–8/	9/–14/	12/	11 –14/	9/–12/	10/–14/	10/–10/6	12/
Carpenters ,, ,, ,, ,,	6/–8/	9/–11/6	9/	8/–10/	8/–10/	9/–12/	9/	9/–10/6
Painters ,, ,, ,, ,,	8/	7/6–12/	8/	8/–12/	8/–10/	9/–12/	9/	8/–10/6
Shoemakers ,, ,, ,, ,,	6/–7/6	7/6–8/	6/–8/	7/6–8/6	7/6–10/	7/ 10/	8/–10/	7/–8/
Coopers ,, ,, ,, ,,	5/–7/	9/–10/	8/–10/	8/–10/	7/6–10/	8/–11/	9/	10/–10/6
Miners ,, ,, ,, ,,	7/–8/ per day	7/6–10/ day	— per week	— per day	10/ per day	9/ day	10/ per day	8/6 day
Tailors without board	6/–8/ per day	8/–10/ per week	40/–60/ per week	6/8–15/ week	10/ per week	6/8–10/ week	9/ per day	8/–10/ per week
Tailoresses ,, ,,	1/–2/6 per day	12/–27/ per week	18/–30/ per week	25/–40/ week	15/–25/ per week	25/–40/ week	4/6–5/ per day	17/6–30/ per week
Butchers ,, ,,	6/–7/6	20/–60/	42/	40/–50/	30/–50/	40/–60/	9/	35/–52/

PRICES IN NEW ZEALAND, 1892 AND 1902.

Produce, etc.	Auckland		Hawke's Bay.		Wellington.		Canterbury.	
	1892	1902.	1892.	1902.	1892.	1902.	1892.	1902.
Flour, retail, per bag of 50 lbs.	4/9	6/9–8/	6/3	6/6–8/6	6/–6/9	7/6–8/6	5/–5/6	7/3–9/
Bread, per 4-lb. loaf	/7	/7–/8	/6	/7–/8	/6–/7	/7–/8	/5	/7–/8
Butchers' meat:								
Beef per lb.	/6	/5–/7	/4	/4½–/6	/3½–/5	/4½–/7	/5	/4–/8
Mutton " "	/4	/3½–/7	/4	/3–/4½	/3½–/4	/4½–/6	/3	/3½–/6
Pork " "	/4½	/5–/7	/4½	/5–/6	/5–/6	/6–/8	/4–/6	/6–/7
Butter, salt per lb.	/6	/7–/10	/8–/9	/8–/10	/8–/9	/8–/9	/6–/7	/7–/10
Cheese, colonial " "	/5	/6½–/8	/7	/8–/10	/6–/8	/5½–/8	/5	/7–/8
Bacon " "	/6–/8	/8–/10	/6	/9–1/1	/6½–/7	/9–1/3	/7–/8	/8–/11
Potatoes, retail, per cwt.	3/6	6/3–14/	5/	10/–12/6	6/–8/6	5/–11/	1/6	7/6–13/6
Coal, per ton	25/	26/–55/	38/	35/6–52/6	34/–50/	38/–50/	30/–32/	36/–52/
Firewood, per cord	12/	20/–30/	35/	18/–32/	16/–40/	18/–36/	25/–30/	28/–40/
Beer, colonial, per hhd.	86/6	80/–92/	95/	90/–110/	85/–90/	80/–100/	80/–90/	80/–108/

APPENDIX III.

Letter of Mr. F. G. Ewington, of Auckland, to the *Auckland Star*.

Compulsory Conciliation and Arbitration.

[*From the "Auckland Star," Thursday, May* 16, 1901.]

(To the Editor.)

Sir,—In last night's issue "Earnest Hope," blushing behind a mask, asked me why I am opposed to compulsory arbitration.

I reply: First, because our New Zealand Act is inherently unjust in giving preference of labour to trade unionists, making non-unionists, who are liable to be called on to lay down their lives in defence of the colony, and who pay taxes, equally with unionists, stand cap-in-hand like beggars behind unionists in the labour market, and making employers criminals, unless they employ particular men. It is as wrong to compel masters to employ particular men as to compel men to work for particular masters, which is slavery.

Secondly, I object because of the harm the Act has done, is doing, and will do. It has set class against class, *e.g.*, unionist against non-unionist, master against servant, and servant against master, and has been used as an instrument of political tyranny and industrial and social persecution. It has forced up nominal wages, and lowered real wages, scared capital, restricted industrial enterprise, induced a larger resort to machinery and the consequent dispensing with manual labour, till at last we have got about 5,000 men employed on public co-operative works which are partially public relief works, and that whilst the banks are glutted with capital which people are afraid to use. In 1894 co-operative workers were only 2,066. The Act, moreover, fosters

big commercial concerns and crushes out little ones, and fixes a rate of wages in the North merely to suit a section in the South, where industrial and social conditions differ, thereby entailing a higher price on consumers who are utterly ignored both by the Act and by trade unions.

Thirdly, it keeps the colony in a state of perpetual unrest, as is proved by the immense number of industrial disputes now pending.

Fourthly, it has failed in its operations. Mr. John Ross says so, and he is a Government supporter, a large employer of labour, and a friend of the working classes. The *New Zealand Herald*, the *Wellington Post*, the *Post*, the *Observer*, and other journals say so; the unions have declared the Conciliation Boards useless; even "Earnest Hope" says so; and we know they are, because in the South both employers and workpeople are joining to set up voluntary Boards of Conciliation, which the Employers' Association in Auckland joined with Knights of Labour, and the Trades and Labour Council to do in 1891.

Fifthly, because it is a waste of public money. Boards of Conciliation stump the country at great expense, and a new judge has had to be appointed to deal with disputes encouraged by the Act.

Sixthly, the chairmen ought not to be young ministers of religion, with no knowledge of law and the practical every-day working of trade and industry, but lawyers, as Mr. Justice Cooper said from the Bench publicly at Christchurch on Thursday, 25th ult.

Seventhly, it does not prevent strikes, false witnesses to the contrary notwithstanding. There was a strike at the Parliamentary Buildings. In October last there was a painters' strike at Hastings, there were two strikes of gold miners at Nelson, a coal truckers' strike at Greymouth, and a strike of ballast hands on the Grey-Hokitika railway. Last Friday there was a strike of railway workmen in the South, and last Monday there was a strike of painters at Napier.

The newspapers and the pulpits which have guiltily remained dumb, instead of denouncing the gross injustice of the Act in placing non-unionists on an inequality with trade unionists before the law, are as much to blame as the slavish, self-seeking majority of members of Parliament who, rather than lose place and pay, put the unjust law upon the Statute Book; but Nemesis is coming. "The mills of God grind slowly, but they grind exceeding small; though with patience He stands waiting, with exactness grinds He all."—I am, etc.,

F. G. Ewington.

Auckland, May 16, 1901.

APPENDIX IV.

NOTE TO BIBLIOGRAPHY.

It is necessary to draw attention to one or two important intentional omissions in the following Bibliography. Perhaps the most important is the entire absence of any reference to the numerous detailed reports of particular arbitrations which have from time to time been published. Many of these reports are indicated in the Bibliography to S. and B. Webb's History of Trade Unionism and to their Industrial Democracy. Another important omission is that of all the rules of the various voluntary boards of conciliation and arbitration, and also of all awards of arbitrations. It may not be out of place here to mention a few publications, where copies of rules and awards will be found: Reports of the Royal Commission on Labour; De la Conciliation et de l'Arbitrage dans les Conflits Collectifs entre Patrons et Ouvriers en France et à l'Étranger; Reports of the

American Industrial Commission; Reports on the Changes in the Wages and Hours of Labour; Reports on Strikes and Lockouts; Reports of Proceedings under the Conciliation Act, 1896; Bulletins of the U.S.A. Department of Labour; the *Labour Gazette*; W. J. Ashley, the Adjustment of Wages; J. B. M'Pherson, Voluntary Conciliation and Arbitration in Great Britain, etc. The awards, recommendations and agreements made under the various Australasian Compulsory Arbitration Acts will be found in the publications of the Departments of Labour of the respective countries.

With regard to the Statutes, in several cases older enactments have been omitted where recent reforming and consolidating Acts have been passed. With one or two exceptions, the annual reports of various boards of conciliation and arbitration have been omitted. No mention either is made of the many economic text books which contain references to industrial conciliation and arbitration.

In compiling this Bibliography, I have recorded only those works, articles, etc., which I have read or to which I have found references, and there has been no attempt to make it complete.

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Compulsory Arbitration in a leader, and a long correspondence on the subject was published in the paper. The following wrote letters:—

A Layman.—December 28th, 1898.

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Argyll, Duke of.—January 28th, 1899.

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Fry, Sir Edward.—December 28th, 1898, and January 11th, 1899.

Hereford, Bishop of.—December 23rd, and 28th, 1898, and January 6th, 1899.

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